

John Michael Kirk
(Name)P.O. Box 3030
(Address)Susanville Ca
(City, State, Zip)V-58590 B-2-101-L
(CDC Inmate No.)

E-filing

United States District Court
Southern District of California555
New
FILED
FEB - 5 2008
RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

SI (PR)

John Michael Kirk
(Enter full name of plaintiff in this action.)

CV 08 - 0805

Plaintiff,

Civil Case No. _____
(To be supplied by Court Clerk)

v.

Warden Feltner
D. L. Cobb, Jr. Grannis
Dr. James
Dr. David
(Enter full name of each defendant in this action.)Complaint Under the
Civil Rights Act
42 U.S.C. § 1983

Defendant(s).

A. Jurisdiction

Jurisdiction is invoked pursuant to 28 U.S.C. § 1343(a)(3) and 42 U.S.C. § 1983. If you wish to assert jurisdiction under different or additional authority, list them below.

B. Parties

1. **Plaintiff:** This complaint alleges that the civil rights of Plaintiff, John Michael Kirk (print Plaintiff's name), who presently resides at H.D.S.P. P.O. Box 3030 (mailing address or place of confinement) Susanville Ca 96127, were violated by the actions of the below named individuals. The actions were directed against Plaintiff at High Desert State Prison on (dates) 4-2-07, 5-2-07, and _____.

(Institution/place where violation occurred) (Count 1) (Count 2) (Count 3)

2. Defendants: (Attach same information on additional pages if you are naming more than 4 defendants.)

Defendant FELKER resides in lassen,
(name) (County of residence)
 and is employed as a Warden. This defendant is sued in
(defendant's position/title (if any))
 his/her ☐ individual ☒ official capacity. (Check one or both.) Explain how this defendant was acting
 under color of law: other Defendants: acting under the authority of
Warden Felker

Defendant Dr James resides in lassen,
(name) (County of residence)
 and is employed as a DOCTOR. This defendant is sued in
(defendant's position/title (if any))
 his/her ☐ individual ☒ official capacity. (Check one or both.) Explain how this defendant was acting
 under color of law: acted under the color and authority Refusing
To accommodate my pain management and DJC ing my pain
meds as well as my Disability Requirements

Defendant Dr David resides in lassen,
(name) (County of residence)
 and is employed as a DOCTOR. This defendant is sued in
(defendant's position/title (if any))
 his/her ☒ individual ☐ official capacity. (Check one or both.) Explain how this defendant was acting
 under color of law: Refusing me my pain meds and making false
allegation Stating that Pain meds and medical Devices and spine
Problems was not indicated which is false

Defendant D. Gramis resides in SACRAMENTO,
(name) (County of residence)
 and is employed as a CHIEF OF CORRECTIONS. This defendant is sued in
(defendant's position/title (if any))
 his/her ☐ individual ☒ official capacity. (Check one or both.) Explain how this defendant was acting
 under color of law: Denied my appeal without any investigation

C. Causes of Action (You may attach additional pages alleging other causes of action and the facts supporting them if necessary.)

Count 1: The following civil right has been violated: Right To medical Care
(E.g., right to medical care, access to courts,
freedom from cruel and unusual Punishment,
due process, free speech, freedom of religion, freedom of association, freedom from cruel and unusual punishment,
etc.)

Supporting Facts: [Include all facts you consider important to Count 1. State what happened clearly and in your own words. You need not cite legal authority or argument. Be certain to describe exactly what each defendant, *by name*, did to violate the right alleged in Count 1.]

On 4-2-07 Dr James Chase To O/C my pain medication over the phone
To R.N. Camacho without even seeing my medical file I filed a
Emergency medical form Dr James seen me in Person and Refused
To Re-fill any of my meds or grant me any of my medical supplies
Basing His Decision on a Face Value Decision without even Review-
ing my medical file Dr James Poor Decision and lack of Professionalism
are Just Plain Laxness led to me suffering cruel and unusual punish-
ment I was on these pain medications for approximately 2-years with
Documentation in my medical file clearly pointing out that I need these
medications because of the extreme pain I am in To Take these medoca-
tions from a patient that clearly needs them without any kind of
medical Detoxication is clearly cruel and unusual punishment and
Dr James Just Does what ever He wants right are wrong
See Atti Form Order Date 4-2-07 # exhibit #1

and See ATT: Pages 1- Thru 9 History of medications

#, #9

PART I: TO BE COMPLETED BY THE PATIENT

A fee of \$5.00 may be charged to your trust account for each health care visit.

If you believe this is an urgent/emergent health care need, contact the correctional officer on duty.

REQUEST FOR: MEDICAL ☒ MENTAL HEALTH ☐ DENTAL ☐ MEDICATION REFILL ☐
 NAME: Kirk CDC NUMBER: V-58590 HOUSING: B-2-108-L
 PATIENT SIGNATURE: John M Kirk DATE: 4-4-07

REASON YOU ARE REQUESTING HEALTH CARE SERVICES. (Describe Your Health Problem And How Long You Have Had The Problem)
I arrived in H.P.S.P. 4-2-07 just about all my medications were D.C. and I was told that soon as my medication run out that was brought with me I would no longer get them just like the some and Vicodin that was D.C. all my medical charts show I need these meds atleast 5- Doses 2- To take P.P.s. Any I need these meds 1- Specialist recommended Morphine another doctor recommended Motridone and that I see a Doctor Specialist for my upper
 NOTE: IF THE PATIENT IS UNABLE TO COMPLETE THE FORM, A HEALTH CARE STAFF MEMBER SHALL COMPLETE THE FORM ON BEHALF OF THE PATIENT AND DATE AND SIGN THE FORM. See Att: form

Line which is twisted with Contusion's and Detraction I Cant sleep at night I have uncontrol-
 l muscle spasms muscle clenched in sever pain I need my pain egg state method and my
 medication I should full under chronic care why I was won ship at here I dont know
 if H.P.S.P. Doesnot Deal with peoples medical problems anyone should know just
 D.C. someones meds like that after you ben on them so long plus all documentation
 partly should I need them med's is a form of Child and unts like punishment
 der title 15 states you are to be treated for any sever pain in abeling you to function
 regulate Day Plus it falls under a emorgance under uncontrol like muscle spasmis
 all under all catigarys your assistance in this matter would be gratefully appreciated
 Plus I need my Silver Bullets for constipation that worked Sincerely thank you
 take me I dont know what your gata is as I am as dealing
 with pain issues but what I was taking was working I
 would like my meds
 John M Kirk
 V-58590
 B-2-108-L

ceued 4/4/07 e 1640 Pk

Duplicate
 no line

APPOINTMENT SCHEDULED AS: EMERGENCY (IMMEDIATELY) ☐ URGENT (WITHIN 24 HOURS) ☐ ROUTINE (WITHIN 14 CALENDAR DAYS) ☐
 REFERRED TO PCP: _____ DATE OF APPOINTMENT: _____
 COMPLETED BY: _____ NAME OF INSTITUTION: _____
 T / STAMP NAME: 244 (Pres) SIGNATURE / TITLE: [Signature] DATE/TIME COMPLETED: 4/4/07 1700

Exhibit 1

NOTE: SEND COPY OF PHYSICIAN'S ORDER FOR MEDICATION
TO PHARMACY AFTER EACH ORDER IS SIGNED.

Order Date	Time	Problem #	Physician's Order and Medication (Orders must be dated, timed, and signed.)
4/2/07			HDSP RIR
			MD line 14 days - chronic pain, GERD
		#4 in possession	Zantac 150mg, PO, QID BID X 30 days
		#13 in possession	Metamucil packet, 1 pkt in 8oz H ₂ O, BID ^{use own supply}
		#14 transfer	Soma 350mg, $\dot{\bar{i}}$ PO, QAM, $\dot{\bar{i}}$ PO QPM c food
			Vicodin $\dot{\bar{i}}$ - $\dot{\bar{i}}$ PO, BID, prn pain
		#17 transfer	Neurontin 400mg, $\dot{\bar{i}}$ PO, BID , DOT X 2 weeks
		355cc transfer	mom, $\dot{\bar{i}}$ tablespoon, QD prn constipation
			Fiber tabs $\dot{\bar{i}}$ PO, BID, c 8oz H ₂ O X 30 days
			MOM 30cc, PO, Q 3-4 days, 240ml/mo,
			prn constipation X 30 days
			TO Dr James / Gamacho RN
	1945		MH Refusal - CCMS - 14 days (meds exp 3/27/07)
			Cymbalta 30mg, $\dot{\bar{i}}$ PO, QAM X 14 days
			TO Dr Colletti / Gamacho RN
			Dr. Richard Colletti
			noted 4/2/07 @ 1940
			C. [signature] RN

ALLERGIES:

NKDA

INSTITUTION

HDSP

ROOM/AVING

B2-108L

CDC NUMBER, NAME (LAST, FIRST, MI)

Kirk, John

V58590

11/23/64

Confidential
client information
See W & I Code, Sections 4514 and
5328

PHYSICIAN'S ORDERS

DATE	TIME	PROB#	
12/8/2006			<i>No chart</i>
12/20/2006			S: (history includes details pertinent to the patient's medical complaint) Wants relief some IT, T, T & drows relief Sent by Neurosurg file Med 11/6/6. for LEST. (pending) refers abd flamm. 5x in past. & occ tender abdo B M @ 2-3
Vicodin TTT (12-31-6)			
processed on.			O: (physical assessment) T: 97° P: 100 R: 18 B/P: 121/77 Wt: 196
some IT, T, T			NAD Spine ↓ Flexion due to pain tender paraspinal muscle. lower back. abd (3x) 5x scar & reducible abd flamm. BSCD, & rebound et cetera.
			A: (medical/nsg diagnosis. MTAs may not independently analyze or interpret data.)
			1) Spine Disc disease will get LEST
			2) contusion
			P: (MTA - referral to a higher licensure for prioritization and evaluation.) (RN - action to be taken by the RN so that the patient receives appropriate medical care.)
			1) renewal Meds, analgesic ant; chronic low back, ground floor approx RTC 3 wks for resolution
			E: (education provided) NO mention of this time as getting # Meds & NO acute in control

INSTITUTION Pleasant Valley State Prison

ROOM / WING

CFB2T1000000125L

D4-130L

OUTPATIENT INTERDISCIPLINARY
PROGRESS NOTES

Lyrica PRN

CDC NUMBER, NAME, (LAST, FIRST, MI)

V58590

KIRK, JOHN

11/23/1964

M. CASTILLO, MD.
Physician

MEDICATION ADMINISTRATION RECORD

For the Month of:

Sep. 2006

Year:

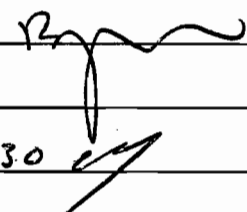
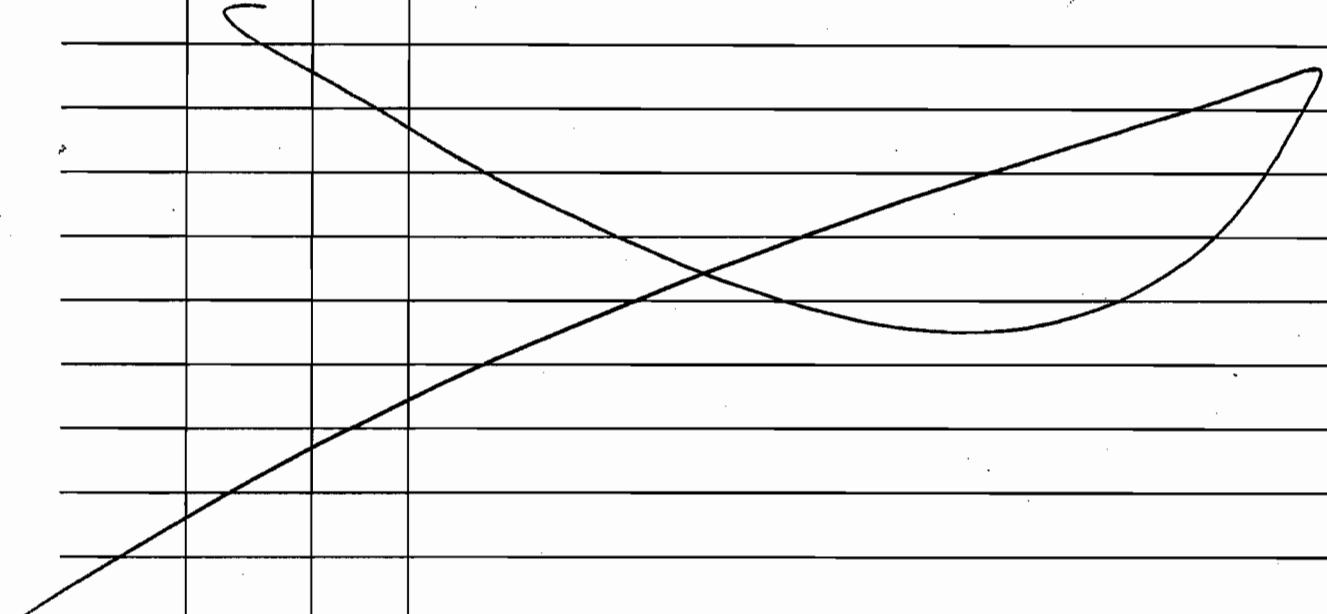
NAME: KIRK, JOHN

CDC#: V-58590

HOUSE: CFB2-129L

#3

NOTE: SEND COPY OF PHYSICIAN'S ORDER FOR MEDICATION
TO PHARMACY AFTER EACH ORDER IS SIGNED.

Order Date	Time	Problem #	Physician's Order and Medication (Orders must be dated, timed, and signed.)
9/11/06	10110		↑ Sama 350 → Aid X 2m. Sun Block bid X 2m. Skin lotion Bid X 2m. Neurosurgery consult (RFS complete), flu on pain management RFE in 2m. Noted 9/11/06 @ 1030 
			

ALLERGIES:

NKA

INSTITUTION

PUSP

ROOM/WING

C2-129

Confidential
client information
See W & I Code, Sections 4514 and
5328

CDC NUMBER, NAME (LAST, FIRST, MI)

12irk
V58590

11/23/64

PHYSICIAN'S ORDERS

CDC HCSD-ASU MED/MAR FORM Style #3 (01/93)

MEDICATION ADMINISTRATION RECORD

For the Month of: AugustYear: 07

NAME OF RN/MTA	Initial	NAME OF RN/MTA	Initial	NAME OF RN/MTA	Initial	NAME OF RN/MTA	Initial
		<i>mbf</i>	<i>mb</i>	<i>McR...</i>	<i>mc</i>		
				<i>Clara</i>	<i>cl</i>	<i>Hut</i>	<i>h</i>

Medication	DR	Initial	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31
643693- 1 DR: DAVID, A. PA DOCUSATE SODIUM 100MG CAP 30 1 CAP 2X DAILY IF CONSTIPATION #30/MONTH Start: 07/03/2007 Stop: 09/02/2007	<i>colw</i>	08 12 18 20																															
643694- 1 DR: DAVID, A. PA FIBER TABLETS 120 2 TABS 2X DAILY Start: 07/03/2007 Stop: 09/02/2007	<i>colw</i>	08 12 18 20																															
643695- 1 DR: DAVID, A. PA IBUPROFEN 400MG TABLET 90 2 TABLETS 2 TIMES A DAY IF PAIN #90/MONTH Start: 07/03/2007 Stop: 09/02/2007	<i>colw</i>	08 12 18 20																															
643696- 1 DR: DAVID, A. PA OZEMPIC 20MG CAP 30 1 CAP EVERY DAY Start: 07/18/2007 Stop: 09/02/2007	<i>colw</i>	08 12 18 20																															
651384- 0 DR: DAVID, A. PA GABAPENTIN 600MG TAB 60 1 TAB TWICE DAILY *NA Start: 07/09/2007 Stop: 10/07/2007	<i>colw</i>	08 12 18 20																															
651824- 0 DR: COLLETTI, R. VENLAFAXINE XR 75MG CAP 30 1 CAP EVERY AM *NA Start: 07/10/2007 Stop: 10/08/2007	<i>colw</i>	08 12 18 20																															
651825- 0 DR: COLLETTI, R. HYDROXYZINE HCL 50MG TAB 60 2 TABS EVERY PM *NA Start: 07/10/2007 Stop: 10/08/2007	<i>colw</i>	08 12 18 20																															
651826- 0 DR: COLLETTI, R. MIRTAZAPINE 45MG TABLET 30 1 TAB EACH EVENING Start: 07/10/2007 Stop: 10/08/2007	<i>colw</i>	08 12 18 20																															

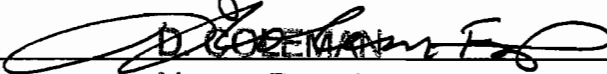
NAME: KIRK, JOHN

CDC#: V-58590

HOUSE: D6-123L

D 6226

NOTE: SEND COPY OF PHYSICIAN'S ORDER FOR MEDICATION
TO PHARMACY AFTER EACH ORDER IS SIGNED.

Order Date	Time	Problem #	Physician's Order and Medication (Orders must be dated, timed, and signed.)
1/19/07	1100	①	Bisacodyl Supp 10mg Unwrap & insert one rectally daily as needed. x 60 days PRN
		⑦	DSS 100mg ÷ PO BID PRN constipation x 60 days
		③	RFS Abd / pelvic US
		④	Chrono abd binder (large)
		⑧	low bunk, low tier, cane Tumble mattress
		⑤	Neurontin 400mg ÷ PO TID x 60 days
		⑥	mm Flu 60 days
			 Nurse Practitioner
1-19-07	1125		Noted Smith, LVN

ALLERGIES:

NKA

INSTITUTION

PVSP

ROOM/WING

D4-130

CDC NUMBER, NAME (LAST, FIRST, MI)

Kirk, John
V58590

Confidential
client information
See W & I Code, Sections 4514 and
5328

PHYSICIAN'S ORDERS

#6

NOTE: SEND COPY OF PHYSICIAN'S ORDER FOR MEDICATION
TO PHARMACY AFTER EACH ORDER IS SIGNED.

Order Date	Time	Problem #	Physician's Order and Medication (Orders must be dated, timed, and signed.)
10/8/06	1430		YMD
		①	Cymbalta 30mg PO 9AM X 7d, then ↑ 60mg PO 9AM X 8d
			under bill 10/12/07
			<i>[Signature]</i>
<p>Approved by R. Collins, LPT on 10/09/06 @ 1205</p>			
<div style="position: relative; width: 100%; height: 100%;"> <div style="position: absolute; top: 0; left: 0; right: 0; bottom: 0; border: 2px solid black; transform: rotate(45deg); transform-origin: center;"></div> <div style="position: absolute; top: 0; left: 0; right: 0; bottom: 0; border: 2px solid black; transform: rotate(-45deg); transform-origin: center;"></div> </div>			

ALLERGIES:

INSTITUTION

ROOM/WING

Confidential
client information
See W & I Code, Sections 4514 and
5328

CDC NUMBER, NAME (LAST, FIRST, MI)

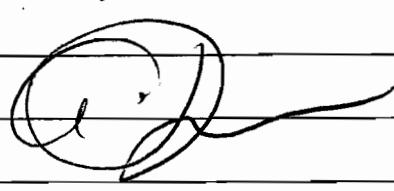
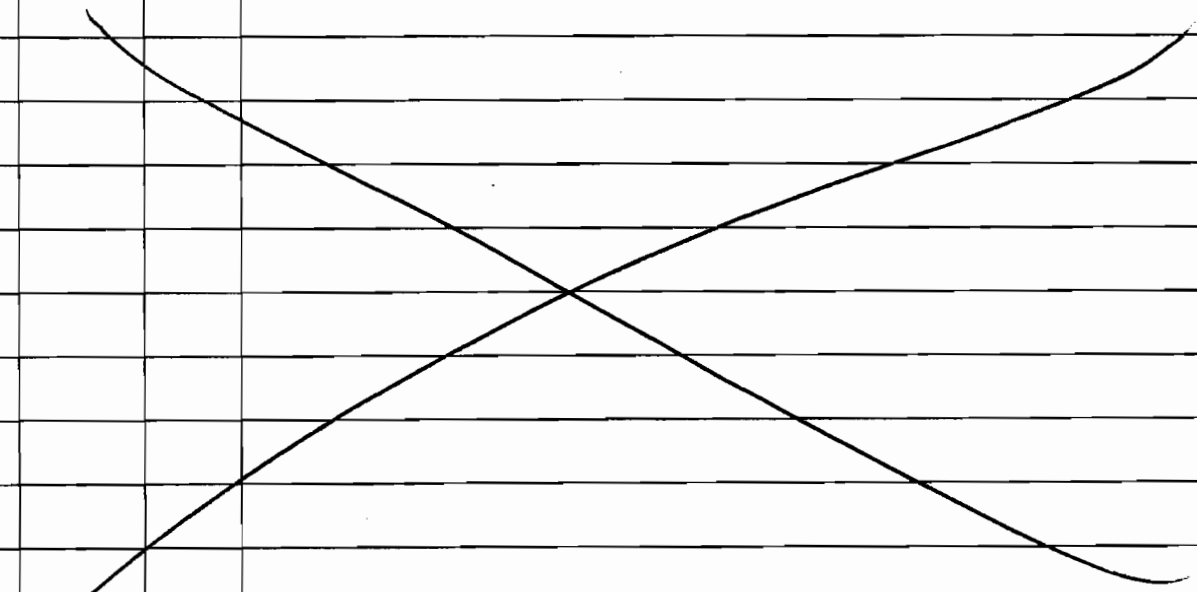
Kirk, John

V 58590

11-23-64

PHYSICIAN'S ORDERS

NOTE: SEND COPY OF PHYSICIAN'S ORDER FOR MEDICATION
TO PHARMACY AFTER EACH ORDER IS SIGNED.

Order Date	Time	Problem #	Physician's Order and Medication (Orders must be dated, timed, and signed.)
12.22.05	1230		<p>BACLOFEN 10mg $\dot{\bar{r}}$ p.o BID X 3 Months</p> <p>Neurontin 1200mg p.o TID X 3 Months</p> <p>Vicodin 5/500 $\dot{\bar{r}}$ p.o TID X 3 Months</p> <p>Waist-BAND for abdomen (abd. binder)</p>
			
			

ALLERGIES:

INSTITUTION

ROOM/WING

Confidential
client information
See W & I Code, Sections 4514 and
5328

CDC NUMBER, NAME (LAST, FIRST, MI)

KIRK. J
V-58590

PHYSICIAN'S ORDERS

CDC HCSD-ASU MED/MAR FORM Style #3 (01/93)

MEDICATION ADMINISTRATION RECORD

For the Month of: Oct

Year: 05

NAME OF RN/MTA	Initial	NAME OF RN/MTA	Initial	NAME OF RN/MTA	Initial	NAME OF RN/MTA	Initial
<i>[Signature]</i>	<i>[Initials]</i>	<i>[Signature]</i>	<i>[Initials]</i>	<i>[Signature]</i>	<i>[Initials]</i>	<i>[Signature]</i>	<i>[Initials]</i>
<i>[Signature]</i>	<i>[Initials]</i>	<i>[Signature]</i>	<i>[Initials]</i>	<i>[Signature]</i>	<i>[Initials]</i>	<i>[Signature]</i>	<i>[Initials]</i>

688545- 5 DR: FLORES
GABAPENTIN 600MG (NEURONTI)
2 BID
*DOT*TMD/APPRO
Start: 09/19/2005 Stop: 10/10/2005

[Handwritten: DIC]

PLEASANT VALLEY PHARMACY

DEPARTMENT OF CORRECTIONS
24863 W. JAYNE AVE. COALINGA, CA 93210
(559) 935-4900 EXT. 5484

AUTION: Federal law prohibits the transfer of this drug to any person other than the patient for whom prescribed.

KIRK, JOHN V-58590 CFB2-129U
DR: KUSHNER RPH: LT MFG: EL
RX: 708180- 0 QTY: 60

GABAPENTIN 600MG (NEURONTI)
2 BID
*DOT*TMD/APPRO

START: 09/29/05 STOP: 10/29/05

PLEASANT VALLEY PHARMACY

DEPARTMENT OF CORRECTIONS
24863 W. JAYNE AVE. COALINGA, CA 93210
(559) 935-4900 EXT. 5484

CAUTION: Federal law prohibits the transfer of this drug to any person other than the patient for whom prescribed.

KIRK, JOHN V-58590 CFB2-129U
DR: KUSHNER RPH: LT MFG:
RX: 708180- 0 QTY: 0

DC GABAPENTIN 600MG (NEU)
***** DISCONTINUED *****
***** DISCONTINUED *****

START: 09/29/05 STOP: 10/07/05

PLEASANT VALLEY PHARMACY

DEPARTMENT OF CORRECTIONS
24863 W. JAYNE AVE. COALINGA, CA 93210
(559) 935-4900 EXT. 5484

AUTION: Federal law prohibits the transfer of this drug to any person other than the patient for whom prescribed.

KIRK, JOHN V-58590 CFB2-129U
DR: KUSHNER RPH: LT MFG: Z
RX: 708178- 0 QTY: 0

HYDROCODONE/APAP 5/500 (VICO)
1 BID X14 DAYS*APPRO
STOCK

START: 09/29/05 STOP: 10/13/05

PLEASANT VALLEY PHARMACY

DEPARTMENT OF CORRECTIONS
24863 W. JAYNE AVE. COALINGA, CA 93210
(559) 935-4900 EXT. 5484

AUTION: Federal law prohibits the transfer of this drug to any person other than the patient for whom prescribed.

KIRK, JOHN V-58590 CFB2-129U
DR: KUSHNER RPH: LT MFG: V
RX: 709906- 0 QTY: 60

BACLOFEN 10MG (LIORESAL)
1 TID
DOT*RECOM

START: 10/07/05 STOP: 01/05/06

Neurontin 300mg
1 HS x 5 days > 1 BID
15 days > 1 TID x 5 days
10-22-05

NAME: KIRK, JOHN

CDC#: V-58590

HOUSE: CFB2-129U

NOTE: SEND COPY OF PHYSICIAN'S ORDER FOR MEDICATION
TO PHARMACY AFTER EACH ORDER IS SIGNED.

Order Date	Time	Problem #	Physician's Order and Medication (Orders must be dated, timed, and signed.)
2-9-5	9 ³⁸	(1)	BACLOFEN 10 mg po B.I.D
		(2)	NEURONTIN 1200 mg po T.I.D
		(3)	VICODIN + po T.P.D X 1005
		(4)	Pain clinic Flap
		(5)	MRI up/cls
			<i>N. KUSHNETZ, M.D.</i>
			<i>Noted up/cls 12/10/05 @ 1400</i>

ALLERGIES:

INSTITUTION

P-SP ROOM/WING C2-129 VL

CDC NUMBER, NAME (LAST, FIRST, MI)

Confidential
client information
See W & I Code, Sections 4514 and
5328

KIRK, JOHN
V 58590

PHYSICIAN'S ORDERS

11-23-1964

Count 2: The following civil right has been violated: E.g. Right To medical Care
 (E.g., right to medical care, access to courts,
Freedom of press and unusual punishment
 due process, free speech, freedom of religion, freedom of association, freedom from cruel and unusual punishment,
 etc.)

Supporting Facts: [Include all facts you consider important to Count 2. State what happened clearly and in your own words. You need not cite legal authority or argument. Be certain to describe exactly what each defendant, by name, did to violate the right alleged in Count 2.]

DOCTOR David Refusa To give me my medication's are medical
 Supplies that I need she says that my medical file does not
 indicate the med's are medical supplies she partly granted
 but I've never receive any thing she stated to me that if I
 didn't write so many CO2 she would have time to review
 my medical well she had time to look at my file and she
 still denied me my medication and medical supplies Pain
 Back Bench egg crate MATTRESS bottom bunk lower cell
 See ATT: form A.D-A6701464-07402 log numbers and ATT:
 medical file Pain Institute #1 #2 spine specialist 9-22-06
 #3 Radiology dated 10-4-05 #4 and #5 CRON #6 Health
 Care 2-18-06 #7 and #8 all of these exhibits come out of
 my medical How can Ms David state its not indicated
 in my file she was just mad because I filed Appeals I still
 have not got my meds all my medical diseases am still in
 Pain all the time makes me suffer cruel and unusual
 punishment These att: forms shows me David statements
 are untrue

STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS

REASONABLE MODIFICATION OR

INSTITUTION/PAROLE REGION:

LOG NUMBER:

CATEGORY:

ACCOMMODATION REQUEST

HDSP-B

07-01464

18.ADA

Received
CDC 1824 (1/95)

APR 11 2007

MAY 21 2007

THIS FORM IS TO BE USED ONLY BY INMATES/PAROLEES WITH DISABILITIES

Mcd appliances

In processing this request it will be verified that the inmate/parolee has a disability which is covered under the Americans With Disabilities Act.

INMATE/PAROLEE'S NAME (PRINT)

CDC NUMBER

ASSIGNMENT

HOURS/WATCH

HOUSING

John M KIRK V

V-58590

unass

none

D-C-123-h

RECEIVED

In accordance with the provisions of the Americans With Disabilities Act (ADA), no qualified individuals with a disability shall, on the basis of disability, be excluded from participation in, or be denied the benefits of the services, activities, or programs of a public entity, or be subjected to discrimination.

You may use this form to request specific reasonable modification or accommodation which, if granted, would enable you to participate in a service, activity or program offered by the Department/Institution/facility, for which you are otherwise qualified/eligible to participate.

Submit this completed form to the institution or facility's Appeals Coordinator's Office. A decision will be rendered within 15 working days of receipt at the Appeals Coordinator's Office and the completed form will be returned to you.

If you do not agree with the decision on this form, you may pursue further review. The decision rendered on this form constitutes a decision at the FIRST LEVEL of review.

To proceed to SECOND LEVEL, attach this form to an Inmate/Parolee Appeal Form (CDC 602) and complete section "F" of the appeal form.

Submit the appeal with attachment to the Appeals Coordinator's Office within 15 days of your receipt of the decision rendered on this request form.

If you are not satisfied with the SECOND LEVEL review decision, you may request THIRD LEVEL review as instructed on the CDC 602.

MODIFICATION OR ACCOMMODATION REQUESTED

DESCRIPTION OF DISABILITY: and wheel chair

Mcd Cain Can't stand and sit for long period of time and in arms and legs back locks up and can't walk several muscles damage

WHAT VERIFICATION DO YOU HAVE OF YOUR DISABILITY?

2- major operations 14- holes in me several muscles lower on R.T shows 1-5T and 3- disc ruptured pinching spinal cord nerve upon x-ray and on RT shows deteriorating spine twisted spine with contusions and bone spurs 2-operations slit from chest to under belly button with 14- holes in me I just left a medical yard having medical procedures done on my spine

DESCRIBE THE PROBLEM:

I am not receiving any medications that was prescribed by Doctor I don't have my cane I don't have my stomach support brace my egg crate mattress I am forced to hand cuff in back I am forced to stand for long periods of time I can't sleep and am unable to function daily activities of every day life I suffer from severe pain which makes me want to lay in bed all day but sometimes that hurts with more if the nerves in my spine are being pinched it give me muscle cramps spasms and twitches uncontrollable

WHAT SPECIFIC MODIFICATION OR ACCOMMODATION IS REQUESTED?

my cane my egg crate mattress my stomach support that I be sent to a specialist about my upper spine if I am asked to stand and sit a long period of time I have a wheel chair that I receive my medications under 3350.19(b)(4)(5) and 3354.2(A) rules and regulations that I am not

allowed to suffer with medical emergencies mandatory muscle spasms cramps and twitches pain and suffering the mother nephew are illegal does not help any of my diseases so why give that to me that's what the Doctor offered me Doc James

INMATE/PAROLEE'S SIGNATURE

DATE SIGNED

John M Kirk
Doctor I was fine without won seeing my medical file this mcd I was receiving was granite on 602's now Doctor James denied them 5-Doctor stated I had a hernia Doctor James tells me I don't

4-9-07

REASONABLE MODIFICATION OR ACCOMMODATION REQUEST

CDC 1824 (1/95)

REVIEWER'S ACTION

DATE ASSIGNED TO REVIEWER:

DATE DUE:

TYPE OF ADA ISSUE

☐ PROGRAM, SERVICE, OR ACTIVITY ACCESS (Not requiring structural modification)☐ Auxiliary Aid or Device Requested☒ Other *requests cane, eggcrate mattress, stomach support, requests referral to specialist about his upper spine; Pain medication;*☐ PHYSICAL ACCESS (requiring structural modification)

DISCUSSION OF FINDINGS:

See Attached

DATE INMATE/PAROLEE WAS INTERVIEWED

PERSON WHO CONDUCTED INTERVIEW

DISPOSITION

☐

GRANTED

☐

DENIED

☒

PARTIALLY GRANTED

BASIS OF DECISION:

NOTE: If disposition is based upon information provided by other staff or other resources, specify the resource and the information provided. If the request is granted, specify the process by which the modification or accommodation will be provided, with time frames if appropriate.

DISPOSITION RENDERED BY: (NAME)

TITLE

INSTITUTION/FACILITY

APPROVAL

ASSOCIATE WARDEN'S SIGNATURE

DATE SIGNED

*M. Miller NP POC**5-7-08*

DATE RETURNED TO INMATE/PAROLEE

5-9-07

First Level ☐ Granted ☐ P. Granted ☐ Denied ☐ Other _____

E. REVIEWER'S ACTION (Complete within 15 working days): Date assigned: _____ Due Date: _____

Interviewed by: _____

Staff Signature: _____ Title: _____ Date Completed: _____

Division Head Approved: _____ Returned _____

Signature: _____ Title: _____ Date to Inmate: _____

F. If dissatisfied, explain reasons for requesting a Second-Level Review, and submit to Institution or Parole Region Appeals Coordinator within 15 days of receipt of response.

I was interviewed 5-2-07 where I was barely allowed to talk Per Title 15-3084.1. I did not appreciate that I was taken for using the appeals process when in fact Mrs David did take reprisals against me if I didn't file so many appeals she would have more time to deal with my medical problems than to have to deal with paper work and as for medication and medical supplies ex-rays and MRI all that should be in

Signature: John M. Vitek Date Submitted: 5-16-07 ^{SEPT. 2}Second Level ☐ Granted ☒ P. Granted ☐ Denied ☐ Other _____G. REVIEWER'S ACTION (Complete within 10 working days): Date assigned: 5-21-07 Due Date: 6-5-07☐ See Attached LetterSignature: Delia Medical Appeals Date Completed: 6/1/07Warden/Superintendent Signature: Michael Brown Date Returned to Inmate: 6-5-07 ^{RB}

H. If dissatisfied, add data or reasons for requesting a Director's Level Review, and submit by mail to the third level within 15 days of receipt of response.

yes Mrs David is taking reprisals against me you state in your response it not indicated in my medical file about pain eggs crate mattress Vicodin some are about Baker'sfield Specialist all my past chrono's is right in front of David when she is interviewing me she is rude and dis-respectful to me and don't even allow me to talk my chrono's and stuff letters from Specialist in Baker'sfield

Signature: John M. Vitek Date Submitted: 6-7-07

For the Director's Review, submit all documents to: Director of Corrections
P.O. Box 942883
Sacramento, CA 94283-0001
Attn: Chief, Inmate Appeals

DIRECTOR'S ACTION: ☐ Granted ☐ P. Granted ☒ Denied ☐ Other _____☒ See Attached LetterDate: 6-6-07 ^{JUL 3 2007}

**INMATE/PAROLEE
APPEAL FORM**
CDC 602 (12/87)

Location: Institution/Parole Region

Log No.

Category

1. HDSP1. 07-046918

2. _____

2. _____

You may appeal any policy, action or decision which has a significant adverse affect upon you. With the exception of Serious CDC 115s, classification committee actions, and classification and staff representative decisions, you must first informally seek relief through discussion with the appropriate staff member, who will sign your form and state what action was taken. If you are not then satisfied, you may send your appeal with all the supporting documents and not more than one additional page of comments to the Appeals Coordinator within 15 days of the action taken. No reprisals will be taken for using the appeals procedure responsibly.

NAME <u>Kirk</u>	NUMBER <u>V-58590</u>	ASSIGNMENT <u>unasp</u>	UNIT/ROOM NUMBER <u>D-6-123-L</u>
---------------------	--------------------------	----------------------------	--------------------------------------

A. Describe Problem: _____

If you need more space, attach one additional sheet.

B. Action Requested: _____

Inmate/Parolee Signature: _____

Date Submitted: _____

C. INFORMAL LEVEL (Date Received: _____)

Staff Response: _____

Staff Signature: _____

Date Returned to Inmate: _____

D. FORMAL LEVEL

If you are dissatisfied, explain below, attach supporting documents (Completed CDC 115, Investigator's Report, Classification chrono, CDC 128, etc.) and submit to the Institution/Parole Region Appeals Coordinator for processing within 15 days of receipt of response.

Signature: _____

Date Submitted: _____

Note: Property/Funds appeals must be accompanied by a completed Board of Control form BC-1E, Inmate Claim

CDC Appeal Number:

RECEIVED
JUN 11 2007
INMATE APPEALS
BRANCH

ATTACHED
 1824

502

Memorandum

Date: May 5, 2007

To: J. KIRK, V-58590
HOUSING UNIT B2-108
HIGH DESERT STATE PRISON

Subject: **APPEAL LOG # HDSP-B-07-01464 (CDC1824)**
FIRST LEVEL RESPONSE

APPEAL DECISION: Appeal is partially granted.

APPEAL ISSUE: Inmate states he cannot stand or walk for long periods of time without numbness in his arms and legs and his back locking up. He states he cannot walk because of severe nerve damage. He claims an MRI shows 1st and 3rd ruptured discs that are pinching his sciatic nerve, and that his deteriorating spine is twisted and has contusions and bone spurs. He says he has had 2 operations. The inmate also states he is not getting his medications that were prescribed by the doctor and the specialist. He doesn't have his cane, stomach brace, or egg crate mattress. He says he is being forced to wear handcuffs in back and is being forced to stand for long periods of time. He can't sleep and is unable to function in daily activities. He says he suffers from severe pain which makes him want to lie in bed all day. Sometimes the pain is much worse if the nerves in his spine are being pinched. This gives him muscle cramps and twitches, which are uncomfortable.

The inmate is requesting a cane, egg crate mattress, his stomach support, and that he be sent to a specialist about his upper spine. If he is asked to stand or sit for a long period of time he is requesting a wheelchair. He also requests he receive his medications because he should not be allowed to suffer nerve damage or involuntary muscle spasms, cramps, and twitches. He says Motrin, Naproxen, and Tylenol do not help so he wonders why he is being given these medications. He says that is what the doctor offered him. He states the doctor said he was fine without even seeing his medical file. The previous medications he was taking were granted on prior 602 appeals but now this doctor denied them. Five doctors said he had a hernia but this doctor told him he does not.

APPEAL RESPONSE: Mr. Kirk, in reaching a decision on your appeal, your CDC-1824, your medical file, applicable sections of the California Code of Regulations (CCR) Title 15, Departmental Operations Manual (DOM), and your interview with A. David, PA-C, on May 2, 2007, were reviewed and considered.

At this interview, Ms. David discussed your medical issues with you. You stated you understand that she would need to review your prior unit health records, due to being unable to find any x-rays or MRIs in his current volume, and any medical decisions would be based on your previous records as well as your physical examination of May 2.

J. KIRK, V-58590
HDSP-B-07-01464 (CDC 1824)
HIGH DESERT STATE PRISON

Page 2

After your examination, Ms. David found that her findings did not support your request for Vicoden or Methadone. However, you may continue your Neurontin while further evaluations are conducted. Additionally, she states you have been approved for evaluation of your cervical spine by a neurosurgeon. Physical findings do not support an egg crate mattress, a wheelchair or a cane at this time and they are not medically indicated.

Ms. David states she had great difficulty understanding the 602 submitted by you, therefore, her responses during the interview were based on requests discussed with you at the time of your interview and the physical examination of May 2, 2007.

A review of the High Desert State Prison list for inmates with Test of Adult Basic Education Reading Scores of 4.0 or less indicates that your Reading Grade Point Level (RGPL) is above 4.0. A review of the HDSP "Assistive Device List" reveals that you do not require special accommodation to achieve effective communication. The method used to achieve effective communication was an oral interview using normal conversational tones. Your personal interaction with the interviewer, A. David, PA-C, and the detail with which you were able to restate the discussion in your own words as well as your mannerisms established certainty that effective communication was achieved.

Based on the information above your appeal is partially granted. You have been prescribed medication for pain and have been referred to a neurosurgeon.

If you are dissatisfied with this response, you may appeal to second level appeals by following the directions located on the front of your CDC-1824, inmate appeal form.

M. Miller NP POC

M. Miller, NP
Provider On Call
High Desert State Prison

c: Central File
Appeal File
Medical Appeal File

Memorandum

Date: June 1, 2007

To: J. KIRK, V-58590
HOUSING UNIT D6-123
HIGH DESERT STATE PRISON

Subject: **APPEAL LOG # HDSP-B-07-01464 (CDC1824)**
SECOND LEVEL RESPONSE

APPEAL DECISION: Appeal is partially granted.

APPEAL ISSUE: It is the position of the inmate that he cannot stand or walk for long periods of time without numbness in his arms and legs and his back locking up. He states he cannot walk because of severe nerve damage. He claims an MRI shows 1st and 3rd ruptured discs that are pinching his sciatic nerve, and that his deteriorating spine is twisted and has contusions and bone spurs. He says he has had 2 operations. The inmate also states he is not getting his medications that were prescribed by the doctor and the specialist. He doesn't have his cane, stomach brace, or eggcrate mattress. He says he is being forced to wear handcuffs in back and is being forced to stand for long periods of time. He can't sleep and is unable to function in daily activities. He says he suffers from severe pain, which makes him want to lie in bed all day. Sometimes the pain is much worse if the nerves in his spine are being pinched. This gives him muscle cramps and twitches, which are uncomfortable.

The inmate is requesting a cane, eggcrate mattress, his stomach support, and that he be sent to a specialist about his upper spine. If he is asked to stand or sit for a long period of time he is requesting a wheelchair. He also requests he receive his medications because he should not be allowed to suffer nerve damage or involuntary muscle spasms, cramps, and twitches. He says Motrin, Naproxen, and Tylenol do not help so he wonders why he is being given these medications. He says that is what the doctor offered him. He states the doctor said he was fine without even seeing his medical file. The previous medications he was taking were granted on prior 602 appeals but now this doctor denied them. Five doctors said he had a hernia but this doctor told him he does not.

At the second level, the inmate states that at his interview on May 2, 2007, he was barely allowed to talk. He claims that Ms. David did take reprisal against him, stating that "if he didn't file so many appeals she would have time to deal with his medical problems". The inmate states that his medications, medical supplies, x-rays, MRI and all should be in his medical record. He doesn't know what medical file Ms. David was looking at when she told him these were not medically indicated because all his medical history is in his medical file. He again states that Ms. David is not giving him what he needs as reprisal for submitting so many appeals. He states he is only getting Neurontin, but what about his Soma, Vicodin, stool softener, Tagamet, and suppositories. He states he does not have bowel movements for weeks at a time.

J. KIRK, V-58590
HDSP-B-07-01464 (CDC1824)
HIGH DESERT STATE PRISON

Page 2

APPEAL RESPONSE: Mr. Kirk, in reaching a decision on your appeal, your CDC-602, your medical file, applicable sections of the California Code of Regulations (CCR) Title 15, Departmental Operations Manual (DOM), and your interview with A. David, PA-C, on May 2, 2007, were reviewed and considered.

At this interview, you stated that you understood Ms. David would have to review your prior records before making any medical decisions regarding your care. On examination, she did not find anything supporting your request for Vicodin or Methadone, however, she did continue your Neurontin while further evaluations are conducted. Your referral for the neurosurgery consultation has been approved. Physical findings did not support an eggcrate mattress, wheelchair, or a cane as they are not medically indicated at this time.

Ms. David stated that she had difficulty understanding the 602 issues, therefore, her responses were based on your discussion with her at that time and the physical examination of May 2, 2007. You were prescribed medication for pain and were referred to a neurosurgeon.

At the second level, the response is essentially the same as at first level. A review of your unit health record shows that the referral to the neurosurgeon was approved on May 2, 2007, and was forwarded to the Specialty Clinic for scheduling. You were seen again on June 1, and given Neurontin and Motrin, and Colace for your constipation.

A review of the High Desert State Prison list for inmates with Test of Adult Basic Education Reading Scores of 4.0 or less indicates that your Reading Grade Point Level (RGPL) is above 4.0. A review of the HDSP "Assistive Device List" reveals that you do not require special accommodation to achieve effective communication. The method used to achieve effective communication was an oral interview using normal conversational tones. Your personal interaction with the interviewer and the detail with which you were able to restate the discussion in your own words, as well as your mannerisms, established certainty that effective communication was achieved.

Based on the information above your appeal is partially granted. You are being scheduled for a consultation with a neurosurgeon for evaluation of your cervical spine. Your unit health record has been reviewed and you have been given pain medications and prescribed stool softeners. You have not given substantial evidence to support your claim that Ms. David is doing any reprisals against you for filing appeals.

J. KIRK, V-58590
HDSP-B-07-01464 (CDC1824)
HIGH DESERT STATE PRISON

Page 3

If you are dissatisfied with this response, you may appeal to the Director's level by following the directions located on the front of your CDC-602, inmate appeal form.

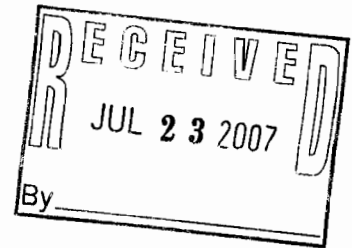
A handwritten signature in black ink, appearing to read "S. M. Roche", with a long, sweeping horizontal stroke extending to the right.

S. M. Roche, MD
Chief Medical Officer
High Desert State Prison

c: Central File
Appeal File
Medical Appeal File

STATE OF CALIFORNIA
DEPARTMENT OF CORRECTIONS AND REHABILITATION
INMATE APPEALS BRANCH
P. O. BOX 942883
SACRAMENTO, CA 94283-0001

DIRECTOR'S LEVEL APPEAL DECISION



Date: JUL 03 2007

In re: Kirk, V-58590
High Desert State Prison
P.O. Box 270220
Susanville, CA 96127

IAB Case No.: 0616073

Local Log No.: HDSP 07-01464

This matter was reviewed on behalf of the Director of the California Department of Corrections and Rehabilitation (CDCR) by Appeals Examiner B. Sullivan, Staff Services Manager I. All submitted documentation and supporting arguments of the parties have been considered.

I APPELLANT'S ARGUMENT: It is the appellant's position that he cannot stand or sit for long periods of time. He says he has numbness in his arms and legs and his back locks up and he cannot walk. He states that he is not receiving any medications that were prescribed by the doctors and specialists. He says he does not have his cane, his stomach brace, or his eggcrate mattress. He believes that Ms. David is not giving him what he needs as reprisal for submitting so many appeals. He asks for a cane, an eggcrate mattress, stomach support, and to be sent to a specialist. He asks for a wheelchair and his medications.

II SECOND LEVEL'S DECISION: The reviewer found that the appellant's interview with A. Davis, Physician's Assistant (PA) at the High Desert State Prison (HDSP) showed that her findings did not support the appellant's request for Vicodin or Methadone; however, she did continue the appellant on Neurontin. His referral for the neurosurgery consultation has been approved. Physical findings did not support an eggcrate mattress, wheelchair, or a cane as they are not medically indicated at this time. The appellant was recently seen on June 1, 2007 and given Neurontin, Motrin, and Colace. He is being scheduled for a consultation with a neurosurgeon for evaluation of his cervical spine. He has been prescribed pain medications and stool softeners. He has not given substantial evidence to support his claim that PA David is doing any reprisals against him for filing appeals. The appeal is granted in part at the Second Level of Review.

III DIRECTOR'S LEVEL DECISION: Appeal is denied.

A. FINDINGS: At the Director's Level of Review, the appellant says that his Unit Health Record would show all his past chronos for a cane, eggcrate mattress, Vicodin, and staff letters from the Bakersfield specialist that he saw.

While the appellant might disagree with the medical opinions of the doctors and specialists at HDSP who have examined him and reviewed his Unit Health Record, he must realize that medical diagnosis and treatment recommendations can vary between facilities, specialists, and physicians throughout the CDCR. A doctor or specialist in Bakersfield may have a different medical opinion than a doctor at HDSP. The appellant has not been approved for the accommodations he requested. After considering the evidence and arguments herein, it has been determined that staff acted appropriately on the appellant's request.

B. BASIS FOR THE DECISION:

Armstrong v. Davis Court Ordered Remedial Plan: ARPI, ARPII.A, ARPII.F
California Code of Regulations, Title 15, Section: 3270, 3350, 3354

C. ORDER: No changes or modifications are required by the institution.

KIRK, V-58590
CASE NO. 0616073
PAGE 2

This decision exhausts the administrative remedy available to the appellant within CDCR.

A handwritten signature in black ink, appearing to read 'N. GRANIS', is written over the printed name.

N. GRANIS, Chief
Inmate Appeals Branch

cc: Warden, HDSP
Health Care Manager, HDSP
Appeals Coordinator, HDSP
Medical Appeals Analyst, HDSP

INMATE/PAROLEE APPEAL FORM

CDC 602 (12/87)

Location: Institution/Parole Region

Log No.

Category

1. HDSR B1. 07-1402

Medication

2. _____

2. _____

You may appeal any policy, action or decision which has a significant adverse effect upon you. With the exception of Serious CDC 115s, classification committee actions, and classification and staff representative decisions, you must first informally seek relief through discussion with the appropriate staff member, who will sign your form and state what action was taken. If you are not then satisfied, you may send your appeal with all the supporting documents and not more than one additional page of comments to the Appeals Coordinator within 15 days of the action taken. No reprisals will be taken for using the appeals procedure responsibly.

NAME	NUMBER	ASSIGNMENT	UNIT/ROOM NUMBER
KIRK	V-58590	602-589	D-6-123

A. Describe Problem: so are about 1-22-07 I was evaluated by miss Coleman with my medical file present after she read my file she chose to keep my medication at the same dose as it has been in the past and to not react 3-times daily to the vicodin 2-Tabs daily same 2-Tabs morning 1-Tab afternoon 1-at night and stated to me that I was a good candidate to have a morphine drip put in me but they did not have that here so I really should think about methadone as an alternative to the vicodin for a long period of pain meds she did this with my file in front of me I returned to see her in care about 2-14-07 at which time she saw me without my medical file with just a print out of my past medication file because it was only for 3 months because if you need more space, attach one additional sheet. file even after I explained to her that the medication I

B. Action Requested: either my meds are changed back to what I was receiving or that I receive morphine Tabs 2-30 in morning 2-at night and I'm tried on methadone that this be done as soon as possible I was sentenced to 9-years not cruel and unusual punishment, that my administrative remedies be expedited

Inmate/Parolee Signature: John M KirkDate Submitted: 2-20-07

C. INFORMAL LEVEL (Date Received: _____)

Staff Response: partial granted

On 8 mar 07 I was sent out to medical for pain management & review. These recommendations will be reviewed by the 'Return from Medical' medical staff. These are able to evaluate & interpret their recommendations

Staff Signature: _____

Date Returned to Inmate: 3-8-07

D. FORMAL LEVEL

If you are dissatisfied, explain below, attach supporting documents (Completed CDC 115, Investigator's Report, Classification chrono, CDC 128, etc.) and submit to the Institution/Parole Region Appeals Coordinator for processing within 15 days of receipt of response.

on 3-8-07 a specialist in Bakersfield recommended I receive morphine 2-times a day and my regular dosing of medication and some I would like to know what this review board decision was because I'm not receiving any of my meds I would like my medication under 3084.5. (P3) this appeal should of more been sent to

Signature: John M Kirk me it should of been took care of govt lawDate Submitted: 4-5-07

Note: Property/Funds appeals must be accompanied by a completed

rules regulations

CDC Appeal Number: _____

Board of Control form BC-1E, Inmate Claim

APR 09 2007

JUN 07 2007

HDSR

First Level ☐ Granted ☒ P. Granted ☐ Denied ☐ OtherE. REVIEWER'S ACTION (Complete within 15 working days): Date assigned: 4-10-07 Due Date: 5-21-07

Interviewed by: _____

A. David, PA-C on May 2, 2007See AttachedStaff Signature: [Signature] Title: PA Date Completed: 5-25-07Division Head Approved: [Signature] Title: FNP POC Returned: 5-25-07Signature: [Signature] Title: FNP POC Date to Inmate: 5-25-07 BB

F. If dissatisfied, explain reasons for requesting a Second-Level Review, and submit to Institution or Parole Region Appeals Coordinator within 15 days of receipt of response.

3350. (a) (1) (4) (5) clearly states to alleviate severe pain and my medical chart shows a specialist stated I need morphine and evaluation of my medical charts A. David's evaluation of me was rude Dis. Respectful Refused to even allow me to talk I'm receiving a low dose of morphine when I was taken soma v. codin and she states it is not medically indicated then why was I receiving

Signature: [Signature] Date Submitted: 6-5-07 next pageSecond Level ☐ Granted ☒ P. Granted ☐ Denied ☐ OtherG. REVIEWER'S ACTION (Complete within 10 working days): Date assigned: 6-7-07 Due Date: 7-6-07☐ See Attached LetterSignature: [Signature] Date Completed: 7/6/07Warden/Superintendent Signature: [Signature] Date Returned to Inmate: 7-10-07 BB

H. If dissatisfied, add data or reasons for requesting a Director's Level Review, and submit by mail to the third level within 15 days of receipt of response.

I'm dissatisfied Based on Second level Review F I'm still not getting the right medication

Signature: [Signature] Date Submitted: 7-17-07

For the Director's Review, submit all documents to: Director of Corrections
P.O. Box 942883
Sacramento, CA 94283-0001
Attn: Chief, Inmate Appeals

DIRECTOR'S ACTION: ☐ Granted ☐ P. Granted ☒ Denied ☐ Other☒ See Attached LetterDate: OCT 19 2007

1 am on Berley gets me threw the Day she turn's around and writes
 2 my med's for 1-To 2 Tabs 2-Times Daily and some 1-Tab 2-Times Daily
 3 my medical problems haven't got any better if the med's I was on
 4 before was only getting me threw the Day then why would less be
 5 the alternative especially when I was gave more when she was looking
 6 at my medical chart. I've got approximately 3-To 5 medical complaints
 7 in at this time why I hafta keep going threw pain suffering and mental
 8 anguish is ^{second} ~~because~~ me but everytime this happens I hafta write a 602
 9 then by the time it is heard and dealt with even if it is granted
 10 and I get my pill's still the damage is irreparable and it just keeps
 11 happening nothing has changed for the better it's only gonna get
 12 worse my medical conditions intend I hafta be operated on so why
 13 Do I hafta suffer ??? now that I'm only receiving my pill's
 14 2-Times a Day by the time the next dose comes I'm in so much
 15 pain that I stay in pain

16
17 next Page

18 all these med's she refused to give me any medical that I have had and
 19 been on since my last prison now I'm not getting no med's why
 20
21
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Memorandum

Date: May 19, 2007

To: J. KIRK, V-58590
HOUSING UNIT B2-108
HIGH DESERT STATE PRISON

Subject: **APPEAL LOG # HDSP-B-07-01402**
FIRST LEVEL RESPONSE

APPEAL DECISION: Appeal is partially granted.

APPEAL ISSUE: It is the position of the inmate that he was seen at his previous institution in January 2007. The doctor decided to keep him on his same dose of medications (Vicoden and Soma) and to add Neurontin. He states the doctor told him he was a good candidate for Morphine drip, but since they did not prescribe Morphine she advised him to think about Methadone as an alternative to using Vicoden for a long period of time. He states that he saw the doctor again in February, and although he explained to her that his current medications barely got him through the day, she changed the dosage on his Vicoden and Soma. The inmate states that he has 3-5 medical complaints at this time and is suffering pain and mental anguish. He states that his medical condition is only going to get worse until he needs an operation.

The inmate states that he was seen by a specialist for pain management in Bakersfield on March 8, 2007, who recommended that he be given Morphine and Neurontin and Soma. He states he was told the medical staff would review and evaluate these recommendations. He states that he has not been receiving any of his medications.

On appeal, the inmate requests that he be told the results of the pain management specialist and that he be given his medications.

APPEAL RESPONSE: Mr. Kirk, in reaching a decision on your appeal, your CDC-602, your unit health record, applicable sections of the California Code of Regulations (CCR) Title 15, Departmental Operations Manual (DOM), and your interview with A. David, PA-C, on May 2, 2007, were reviewed and considered.

At this interview, Ms. David stated she discussed your 602 requests and performed a complete examination of your spine and back. She stated that neither these physical findings nor the medical documentation available to her in Volume 6 of your unit health record supported your request for Morphine or Methadone for pain management. She stated that these remedies are not medically indicated at this time. Ms. David stated that you understood that your medical history (the prior 5 volumes of your unit health record) will have to be reviewed. However, she stated that you were approved on May 2, 2007, for a neurosurgery consultation for further evaluation of your medical issue. In the meantime, she has consulted with Dr. James and they

J. KIRK, V-58590
HDSP-B-07-01402
HIGH DESERT STATE PRISON

Page 2

have agreed to continue you on your current dosage of Neurontin pending these evaluations, and have ordered a follow-up appointment in the yard clinic.

Be advised that Ms. David stated that she had difficulty both reading and understanding your written appeal requests and that her medical decisions were based on your "verbal" requests at this interview.

A review of the High Desert State Prison list for inmates with Test of Adult Basic Education Reading Scores of 4.0 or less indicates that your Reading Grade Point Level (RGPL) is above 4.0. A review of the HDSP "Assistive Device List" reveals that you do not require special accommodation to achieve effective communication. The method used to achieve effective communication was an oral interview using normal conversational tones. Your personal interaction with the interviewer and the detail with which you were able to restate the discussion in your own words, as well as your mannerisms, established certainty that effective communication was achieved.

Based on the information above your appeal is partially granted. Your current dosage of Neurontin will be continued pending results from evaluation of your entire unit health record and the neurosurgeon and you have been scheduled for a follow-up clinic appointment.

If you are dissatisfied with this response, you may appeal to second level appeals by following the directions located on the front of your CDC-602, inmate appeal form.

Reid FNP POC

B. Reid, Nurse Practitioner
Provider On Call
High Desert State Prison

c: Central File
Appeal File
Medical Appeal File

Memorandum

Date: July 6, 2007

To: J. KIRK, V-58590
HOUSING UNIT B2-108
HIGH DESERT STATE PRISON

Subject: **APPEAL LOG # HDSP-B-07-01402**
SECOND LEVEL RESPONSE

APPEAL DECISION: Appeal is partially granted.

APPEAL ISSUE: It is the position of the inmate that he was seen at his previous institution in January 2007. The doctor decided to keep him on his same dose of medications (Vicoden and Soma) and to add Neurontin. He states the doctor told him he was a good candidate for Morphine drip, but since they did not prescribe Morphine she advised him to think about Methadone as an alternative to using Vicoden for a long period of time. He states that he saw the doctor again in February, and although he explained to her that his current medications barely got him through the day, she changed the dosage on his Vicoden and Soma. The inmate states that he has 3-5 medical complaints at this time and is suffering pain and mental anguish. He states that his medical condition is only going to get worse until he needs an operation.

The inmate states that he was seen by a specialist for pain management in Bakersfield on March 8, 2007, who recommended that he be given Morphine and Neurontin and Soma. He states he was told the medical staff would review and evaluate these recommendations. He states that he has not been receiving any of his medications.

On appeal, the inmate requested that he be told the results of the pain management specialist and that he be given his medications.

At the first level, the inmate was seen by Ms. David, who discussed his 602 requests and performed a complete examination of his spine and back. She stated that neither these physical findings nor the medical documentation in his unit health record supported his request for Morphine or Methadone for pain management, and that these remedies were not medically indicated at that time. She stated that he understood that his medical history would be reviewed and that he had been approved for a neurosurgery consultation for further evaluation of his medical issue. After consulting with Dr. James, it was decided to continue the inmate on his current dosage of Neurontin pending these evaluations, and a follow-up clinic appointment was ordered.

J. KIRK, V-58590
HDSP-B-07-01402
HIGH DESERT STATE PRISON

Page 2

Ms. David stated that she had difficulty reading and understanding the inmate's written appeal requests and based her decisions on his "verbal" requests at the time of the interview.

At the second level, the inmate states his medical chart shows he needs a Morphine evaluation. He states that Ms. David was rude and disrespectful, and refused to allow him to talk. He questions why he was receiving these medications at his last prison if she thinks they are not medically indicated.

APPEAL RESPONSE: Mr. Kirk, in reaching a decision on your appeal, your CDC-602, your unit health record, applicable sections of the California Code of Regulations (CCR) Title 15, Departmental Operations Manual (DOM), and your interview with A. David, PA-C on May 2, 2007, were reviewed and considered.

A review of your unit health record shows that you were seen for a neurosurgery consultation on June 21 and had the recommended x-rays done on June 25, 2007. You will be scheduled for a follow-up in your yard clinic to discuss these results. You are currently receiving your prescribed medications.

Be advised that a member of the health care staff must prescribe all inmate medical care and that such care and treatment is dictated by the problems and symptoms presented to and evaluated by the primary care provider. It is the primary care provider who determines what is medically necessary. In addition, you have not shown sufficient evidence that Ms. David acted outside her scope of licensure, that her actions were unprofessional, or that she acted with malice towards you.

A review of the High Desert State Prison list for inmates with Test of Adult Basic Education Reading Scores of 4.0 or less indicates that your Reading Grade Point Level (RGPL) is above 4.0. A review of the HDSP "Assistive Device List" reveals that you do not require special accommodation to achieve effective communication. The method used to achieve effective communication was an oral interview using normal conversational tones. Your personal interaction with the interviewer and the detail with which you were able to restate the discussion in your own words, as well as your mannerisms, established certainty that effective communication was achieved.

Based on the information above your appeal is partially granted. You have been seen by the neurosurgery consultant, had x-rays taken, and will be scheduled for a follow-up with your primary care provider to discuss these results and further treatment options.

J. KIRK, V-58590
HDSP-B-07-01402
HIGH DESERT STATE PRISON

Page 3

If you are dissatisfied with this response, you may appeal to the Director's level by following the directions located on the front of your CDC-602, inmate appeal form.

Dorothy Edwings, MD
chief physician & Surgeon
For Dr. Roche.

S. M. Roche, MD
Chief Medical Officer
High Desert State Prison

c: Central File
Appeal File
Medical Appeal File

STATE OF CALIFORNIA
DEPARTMENT OF CORRECTIONS AND REHABILITATION
INMATE APPEALS BRANCH
P. O. BOX 942883
SACRAMENTO, CA 94283-0001

DIRECTOR'S LEVEL APPEAL DECISION

OCT 19 2007

Date:

In re: John Kirk, V58590
High Desert State Prison
P.O. Box 270220
Susanville, CA 96127

IAB Case No.: 0702548

Local Log No.: HDSP-07-01402

This matter was reviewed on behalf of the Director of the California Department of Corrections and Rehabilitation (CDCR) by Appeals Examiner V. O'Shaughnessy. All submitted documentation and supporting arguments of the parties have been considered.

I APPELLANT'S ARGUMENT: It is the appellant's position that he is experiencing severe pain and mental anguish. He saw a specialist for pain management in Bakersfield on March 8, 2007, who recommended that he be given Morphine, Neurontin and Soma. The appellant states he was told the medical staff would review and evaluate these recommendations. He states that he has not been receiving any of his medications. At the second level, the appellant stated his unit health record indicates he needs a Morphine evaluation. He states that during the first level interview and complete evaluation, Ms. David was rude and disrespectful and refused to allow him to talk. The appellant questions why he was receiving these medications at his last prison if they are not medically indicated.

The appellant is requesting that he be told the results of the pain management evaluation and that he be given his medications.

II SECOND LEVEL'S DECISION: The reviewer found that the appellant was seen at the first level interview and examination by Ms. David, who discussed his 602 requests and performed a complete examination of his spine and back. She stated that neither these physical findings nor the medical documentation in his unit health record supported his request for Morphine or Methadone for pain management, and that these remedies were not medically indicated at this time. She stated that she understood that his medical history would be reviewed and that he had been approved for a neurosurgery consultation for further evaluation of his medical issues. After consulting with Dr. James, it was decided to continue the inmate on his current dosage of Neurontin pending these evaluations, and a follow-up clinic appointment was ordered.

The appellant was seen for a neurosurgery consultation on June 21, 2007 and had the recommended x-rays on June 25, 2007. The appellant will be scheduled for a follow-up in his yard clinic to discuss these results. The appellant is currently receiving his prescribed medications. The appellant was advised that a member of the health care staff must prescribe all inmate medical care and that such care and treatment is dictated by the problems and symptoms presented to and evaluated by the primary care provider. It is the primary care provider who determines what is medically necessary. In addition, the appellant has not shown sufficient evidence that Ms. David acted outside her scope of licensure, that her actions were unprofessional, or that she acted with malice towards the appellant.

The appeal is granted in part at the Second Level of Review (SLR).

III DIRECTOR'S LEVEL DECISION: Appeal is denied.

A. FINDINGS: The Director's Level of Review reviewed the appellant's appeal complaint, the SLR response and contacted the institution health care staff for further information. Staff report that the cervical spine x-ray report, dated June 25, 2007, indicates there is no instability. The disc spaces and vertebral bodies appear intact. The x-ray report, dated June 25, 2007, of the lumbar spine indicates the disc spaces and vertebral bodies appear intact. There are some degenerative changes of the lower thoracic spine. Flexion and extension views show no instability. Staff stated that now the x-rays are completed, the appellant may be referred for a neurosurgery consult, if deemed appropriate by the appellant's treating physician.

JOHN KIRK, V58590
CASE NO. 0702548
PAGE 2

The appellant is reminded that outside consultants can only make recommendations to the treatment plan. It is ultimately the institution licensed health care providers who determined whether to accept the recommendations.

The appellant's issues were addressed at the SLR. No modification to the SLR is warranted.

B. BASIS FOR THE DECISION:

California Code of Regulations, Title 15, Section: 3350, 3354

C. ORDER: No changes or modifications are required by the Institution.

This decision exhausts the administrative remedy available to the appellant within CDCR.

A handwritten signature in black ink, appearing to read 'N. Grannis', is positioned above the typed name.

N. GRANNIS, Chief
Inmate Appeals Branch

cc: Warden, HDSP
Health Care Manager, HDSP
Appeals Coordinator, HDSP
Medical Appeals Analyst, HDSP

PAIN INSTITUTE OF CALIFORNIA, INC.

SPINE SPECIALISTS

9300 Stockdale Hwy., Suite 100 • Bakersfield, CA 93311

Tel (661) 665-7880 • Fax (661) 665-7881

OPERATIVE REPORT

PATIENT: KIRK, JOHN
PATIENT ID: 13646
DATE OF BIRTH: 11/23/64
DATE OF PROCEDURE: 3/15/06
PROCEDURE: #1 Single injection, Lumbar Epidural Local Anesthetic and Steroid Injection
#2 Fluoroscopic Guidance for Spine Injection

ANESTHESIA: Monitored Anesthesia Care by Surgeon

AN: Sandy Hall

RADIOLOGICAL TECH: Arturo Palencia, M.D.

SURGICAL TECH: Dea Smith

PRE OPERATIVE DIAGNOSIS: Degenerative disk disease, L5-S1

POSTOPERATIVE DIAGNOSIS: SAME

REFERRAL SOURCE: NONE

COMMENTS: The patient is a 41-year-old male scheduled for epidural injection. This is second of the series. Previous epidurals gave 10-20% relief and increase in activities. Side effects reported: none. The procedure is deemed medically necessary since the patient has received anti-inflammatories, opioids and continues to have significant pain.

A history and physical examination has been previously obtained. Allergies were noted and any possible anti-coagulating medications have been discontinued. A booklet entitled "Epidural Steroid Injection" describing the procedure in detail including limitations and possible complications has been reviewed by the patient prior to signing the informed consent. The patient understands and wants to have the procedure performed.

PROCEDURE: An IV heparin lock was inserted in the pre-op areas and the patient was brought to the fluoroscopy suite. Monitors for blood pressure, O2 saturation and EKG were applied. The patient was placed in a prone position and the area of needle entry was identified under fluoroscopy and marked on the skin. The skin was then prepped three times with Betadine solution. For sedation, the patient was given the following IV: 1 mg of Midazolam. The marked skin site and underlying subcutaneous tissue was anesthetized with 1% Lidocaine. A 20-gauge Tuohy needle was slowly inserted under AP fluoro guidance towards the right side of the L5-S1 level. Upon encountering the ligamentum flavum, a pulsator syringe was attached and with the loss of resistance technique, the needle was advanced into the epidural space. There was no CSF or heme noted after the pulsator syringe was disconnected. Thereafter, 2-3 ml of Omnipaque 300 was slowly injected showing adequate spread in the epidural space confirmed by an AP and lateral fluoroscopic view. Thereafter, 3-4 ml of solution 80mg Depo-Medrol with 1% Lidocaine was injected slowly through the epidural needle. The patient was observed for any signs of intrathecal or intravascular injection. Thereafter, the needle was withdrawn and a sterile bandage applied.

The patient tolerated the procedure well and was carefully wheel chaired to the recovery room in stable condition.

Monitors were applied in PAR where patient was observed for 20-25 minutes. After meeting the discharge criteria, the patient was discharged home with the designated driver. VAS prior to procedure was 10/10 and on discharge was 1/10. Post procedure instructions were given.

PLAN: Follow up visit to determine result of epidural

Arturo Palencia M.D.

POST
3/17/06

#2
HDP
James Carter Thomas, MD, APC
1122 North Irwin Street
Hanford, CA 93230
559-584-4427

Patient: Kirk, John
ID: V58590-D4
DOB: 11/23/1967

Date of Service: 02/22/2007

Referring physician: Dr. Supit

MRI of cervical spine: February 16, 2007.

Sagittal and axial images of the cervical spine are submitted in multiple sequences. The cervical cord contains a high signal structure in the central portion suggesting a hydromyelia. This is at the region of C7. Signal in the cord is otherwise unremarkable. Signal in the intervertebral discs also appears within normal limits. Hypertrophic spurring is seen at C3-C4 to the left of midline, this is moderately narrowing the neural foramen at that level. Other neural foramina appear patent. There is no evidence of disc herniation. No bony injury is seen.

Impression:

Hydromyelia rule out syringomyelia.

Narrowing of the neural foramen at C3-C4 on the left hypertrophic spurs.

Document authenticated by James Carter Thomas, M.D. on 02/22/2007 14:07:23 ET.

09/28/2006 05:42

1661850860

TCG

PAGE 15/20

Medical Group Centennial

PAIN INSTITUTE OF CALIFORNIA, INC.

SPINE SPECIALISTS

TIME IN:

TIME OUT:

FOLLOW-UP NOTE

Date: 09-22-2006
 Patient Name: Kirk, John
 DOB: 11-23-1964
 ACCT#: 13646

Current medications: Soma 350mg Vicodin 500mg
Nesiofin 600mg

How much pain relief have you obtained?

☐ 10-20% ☐ 20-40% ☒ 40-60% ☐ 60-80% ☐ 80-100%

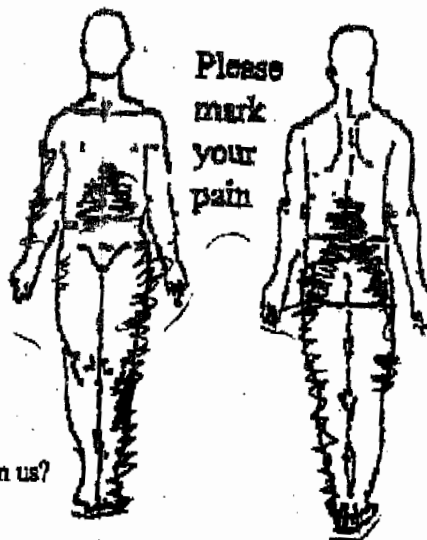
Are you able to sleep better?

☒ Yes ☐ No

Are you having any side effects from the medications you are receiving from us?

☐ Yes ☒ No

If yes, please specify: _____



DO NOT FILL OUT BELOW THIS LINE. OFFICE USE ONLY

BP: 132/85 HR: 65 TEMP: 98.2 WT: 195 02% - 98

Subjective:

Mr./Ms. Returns to the clinic today. It has been _____ week(s) since he/she was last seen.

The Patient was last seen 9/2/06. The Patient with LBP radiating
 to the left leg. He received L5/S1 injection. Provides good relief on
 the left side. Pain not improving more on the right side. Pain

Interim History:

Objective:

- A/A O/O3 tenderness L4-5 and L5-S1

Assessment:

Diagnosis(s):

1. Lumbar DDD
2. LBP
3. Lumbar radiculopathy
4. _____
5. _____
6. _____

Medical decision making:

MRI review ☐ Yes ☐ No

New Findings: _____

Plan:

L5/S1
Continue Vicodin Soma doses
Soma 350mg 3 Q-1D.

Arturo Palencia, M.D.

Rajiv Parti, M.D.

Afaq Kazi, M.D.

Elena Lewis, FNP



1*5137*2006-09-22*216*0*NOSIG*1*1

PLEASANT VALLEY STATE PRISON

P.O. Box 8500
Coalinga, CA 93210

RADIOLOGY REPORT

Patient Name: KIRK, John [V58590]
Date of Service: 10/06/05
Date of Birth: 11/23/60

To: Doctor Coleman

Procedure: X-ray of Cervical Spine [five views]

Indication: None available.

Protocol: The AP, AP odontoid, lateral, and two oblique radiographs of the cervical spine are presented.

Findings: Mild dextroconvex scoliosis is appreciated. Anterior angulation of the cervical spine complex is noted. Otherwise, there is no evidence for acute displaced fracture or dislocation. The vertebral body statures and the intervertebral disc spaces are well maintained. The bony structures are normally mineralized. The right neural canals are patent. The left neural canals are not adequately visualized.

Impression:

1. Mild dextroconvex scoliosis.
2. Anterior angulation of the entire cervical spine complex.

Thank you for the opportunity to assist you with the care of your patient.

MD

Mario Deguchi, M.D.
Diplomate of the American Board of Radiology
MD:jjz

dd: 11/17/05
dt: 11/17/05

127
u

#5
PLEASANT VALLEY STATE PRISON

P.O. Box 8500
Coalinga, CA 93210

RADIOLOGY REPORT

Patient Name: KIRK, John [V58590]
Date of Service: 10/28/05
Date of Birth: 11/23/64

To: Doctor Kushner

Procedure: MRI of the Lumbar Spine

Indication: Chronic pain.

Protocol: The MRI of the lumbar spine is presented in sagittal T1-weighted and T2-weighted sequences. Oblique axial T1-weighted and T2-weighted sequences parallel to the intervertebral discs are available from the L1 to S1 levels.

C2-129u
Findings: The conus medullaris is not well visualized. There is no evidence for acute displaced fracture or dislocation. The vertebral body statures are well maintained. Desiccation of the intervertebral discs is visible from the L4 to the S1 levels. Minimal osteophytes are suspected. These findings are consistent with minimal degenerative disc disease.

At the L1-2 level, there is no evidence of posterior disc protrusion, spinal stenosis, significant narrowing of neural canals or definite impingement of the L1 nerve roots.

At the L2-3 level, there is no evidence of posterior disc protrusion, spinal stenosis, significant narrowing of neural canals or definite impingement of the L2 nerve roots.

At the L3-4 level, there is no evidence of posterior disc protrusion, spinal stenosis, significant narrowing of neural canals or definite impingement of the L3 nerve roots.

At the L4-5 level, posterior disc bulge is appreciated. Otherwise, there is no evidence for spinal stenosis. The neural canals are slightly narrowed without impingement of the L4 nerve roots.

At the L5-S1 level, posterior disc protrusion, measuring approximately 3 mm, is appreciated. Otherwise, there is no evidence for spinal stenosis. The neural canals are slightly narrowed without definite impingement of the L5 nerve roots. Increased fluid signal is present within the disc protrusion. This is consistent with fissure of anulus fibrosus. continued . . .

Impression: Posterior disc protrusion, L5-S1, measuring approximately 3 mm, and fissure of anulus fibrosus.

Thank you for the opportunity to assist you with the care of your patient.


Mario Deguchi, M.D.
Diplomate of the American Board of Radiology
MD:jjz

dd: 11/01/05
dt: 11/02/05

R
put on Dr's name
N. KUSHNER, M.D.

STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS & REHABILITATION

HEALTH CARE SERVICES PHYSICIAN REQUEST FOR SERVICES

(To be completed by requesting Physician and forwarded to Utilization Management Unit)

#7

PATIENT NAME <u>Kirk, John</u>	CDCR NUMBER <u>V58590</u>	INSTITUTION <u>PVSP</u>
DATE OF BIRTH <u>11/23/64</u>	EPID DATE <u>2013</u>	GENDER <u>M</u>
PRINCIPLE DIAGNOSIS <u>Chronic Back pain</u>	CD-9 CODE	CPT CODE(S)
REQUESTED SERVICE(S) <u>Pain Mgmt Fluor "pass" L&S</u>	# OF DAYS RECOMMENDED	
Please circle all that apply: <u>Diagnostic Procedure/Consultation</u> <u>Outpatient/Inpatient</u> <u>Initial/Follow-up</u>		
Requested Treatment/Service is: <u>EMERGENT</u> <u>URGENT</u> <u>ROUTINE</u>		
For the purpose of retrospective review, if emergent or urgent, please justify:		
Proposed Provider: <u>CHRT</u>		Anticipated Length of Stay:
Expected disposition (i.e.: outpatient follow-up, return to institution, transfer):		
Medical Necessity (briefly describe the clinical situation; the history of the illness, treatments used, pertinent lab and imaging studies, or questions for the consultant): <u>Per MR note of 12/16/05 p</u> <u>L&S @ that X</u>		
Estimated time for service delivery, recovery, rehabilitation and follow-up:		
Summary of preliminary or diagnostic work up, conservative treatment provided (if applicable, please provide TB code, CD4, viral load, albumin, total protein and dates within last 3 months):		
Comments (diagrams, risk factors, prognosis, alternative management, etc.):		

REQUESTING PHYSICIAN PRINTED NAME	APPROVED / AUTHORIZED / DENIED / DEFERRED BY	DATE <u>2-18-06</u>
REQUESTING PHYSICIAN SIGNATURE <u>[Signature]</u>	DATE <u>2/15/06</u>	Utilization management tracking #: <u>576-3873</u>
DATE OF CONSULTATION <u>8/3/06</u>	PRINTED NAME OF CONSULTANT <u>AFAO A. Kazi MD</u>	
FINDINGS: <u>The Patient was last seen 3/15/06. The Patient under L&S</u> <u>radiation (R) L&S. R7L.</u> <u>anterior: AP 003 tenderness L4-5 and L5-S1</u> <u>@ focal neurological deficit.</u>		
RECOMMENDATIONS: <u>- L&S</u> <u>- Continue Vicodin same dose - Continue Neurontin</u> <u>- D/C Baclofen - Suma 350mg q Q8</u>		
FOLLOW-UP OR FURTHER EVALUATIONS REQUESTED:		

CONSULTANT SIGNATURE <u>[Signature]</u>	DATE <u>8/3/06</u>	CDCR NUMBER, NAME (LAST, FIRST, MI) AND DATE OF BIRTH <u>Kirk</u> <u>V58590</u> <u>11-23-64</u>
ETA RN SIGNATURE <u>[Signature]</u>	DATE <u>8/3/06</u>	
PCP SIGNATURE <u>[Signature]</u>	DATE <u>8/3/06</u>	

Attach Progress Note page for additional information.

THIS FORM MUST BE RETURNED WITH THE PATIENT!!!

DISTRIBUTION:

- ORIGINAL - FILE IN UHR
- GREEN - TO UHR PENDING ORIGINAL
- CANARY - CONSULTANT
- PINK - UM
- GOLD - SPECIALTY SCHEDULER

CALIFORNIA
(Rev. 03/04)

HEALTH CARE SERVICES REQUEST FORM

DEPARTMENT OF CORRECTIONS

PART I: TO BE COMPLETED BY THE PATIENT

A fee of \$5.00 may be charged to your trust account for each health care visit.

If you believe this is an urgent/emergent health care need, contact the correctional officer on duty.

REQUEST FOR: MEDICAL ☐ MENTAL HEALTH ☐ DENTAL ☐ MEDICATION REFILL ☒NAME: Kirk CDC NUMBER: V-58590 HOUSING: D-4-130-LPATIENT SIGNATURE: John M Kirk DATE: 2-12-07

REASON YOU ARE REQUESTING HEALTH CARE SERVICES. (Describe Your Health Problem And How Long You Have Had The Problem) Can you please re-fill my meds I barley make it with them I really would have bad times without them, it's meds I've been receiving for a long time so if you can't get me in to see the doctor can you please at least have him write the prescription and have it filled then I can see the doctor. It's same 3-times daily 2-Tabs morning 1-afternoon 1-at night 1-Vicodin 2-Tabs 3-Times Daily and Roxitrol 1-Tab 3-Times Daily and Roxitrol

NOTE: IF THE PATIENT IS UNABLE TO COMPLETE THE FORM, A HEALTH CARE STAFF MEMBER SHALL COMPLETE THE FORM ON BEHALF OF THE PATIENT AND DATE AND SIGN THE FORM Zantac 150mg 1-time daily

PART III: TO BE COMPLETED AFTER PATIENT'S APPOINTMENT

☐ Visit is not exempt from \$5.00 copayment. (Send pink copy to Inmate Trust Office.)

PART II: TO BE COMPLETED BY THE TRIAGE REGISTERED NURSE

Date / Time Received: 2/13/07 Received by: [Signature]
 Date / Time Reviewed by RN: 0730 Reviewed by: [Signature]
 S: _____ Pain Scale: 1 2 3 4 5 6 7 8 9 10

O: T: P: R: BP: WEIGHT:

A:

P:

☐ See Nursing Encounter Form

E:

APPOINTMENT SCHEDULED AS: EMERGENCY (IMMEDIATELY) ☐ URGENT (WITHIN 24 HOURS) ☐ ROUTINE (WITHIN 14 CALENDAR DAYS) ☐

REFERRED TO PCP: _____ DATE OF APPOINTMENT: _____
 COMPLETED BY: _____ NAME OF INSTITUTION: _____

PRINT / STAMP NAME: _____ SIGNATURE / TITLE: _____ DATE/TIME COMPLETED: _____

D. Previous Lawsuits and Administrative Relief

1. Have you filed other lawsuits in state or federal courts dealing with the same or similar facts involved in this case? ☐ Yes ☒ No.

If your answer is "Yes", describe each suit in the space below. [If more than one, attach additional pages providing the same information as below.]

(a) Parties to the previous lawsuit:

Plaintiffs: _____

Defendants: _____

(b) Name of the court and docket number: _____

(c) Disposition: [For example, was the case dismissed, appealed, or still pending?] _____

(d) Issues raised: _____

(e) Approximate date case was filed: _____

(f) Approximate date of disposition: _____

2. Have you previously sought and exhausted all forms of informal or formal relief from the proper administrative officials regarding the acts alleged in Part C above? [E.g., CDC Inmate/Parolee Appeal Form 602, etc.] ? ☒ Yes ☐ No.

If your answer is "Yes", briefly describe how relief was sought and the results. If your answer is "No", briefly explain why administrative relief was not sought.

yes I wrote GOALS all the way thru Administrative Remedies which was partly granted which I never received and Doctor David stated it was not medically indicated which is false statement documentation all clearly shows it is medically indicated Chief Director made decisions without any investigation

No 162039

STATE OF CALIFORNIA
CDC 7362 (Rev. 03/04)

HEALTH CARE SERVICES REQUEST FORM

DEPARTMENT OF CORRECTIONS

PART I: TO BE COMPLETED BY THE PATIENT

A fee of \$5.00 may be charged to your trust account for each health care visit.

If you believe this is an urgent/emergent health care need, contact the correctional officer on duty.

REQUEST FOR: MEDICAL ☒ MENTAL HEALTH ☐ DENTAL ☐ MEDICATION REFILL ☐

NAME CDC NUMBER HOUSING

Kier V-58590 D-6-123-6

PATIENT SIGNATURE DATE

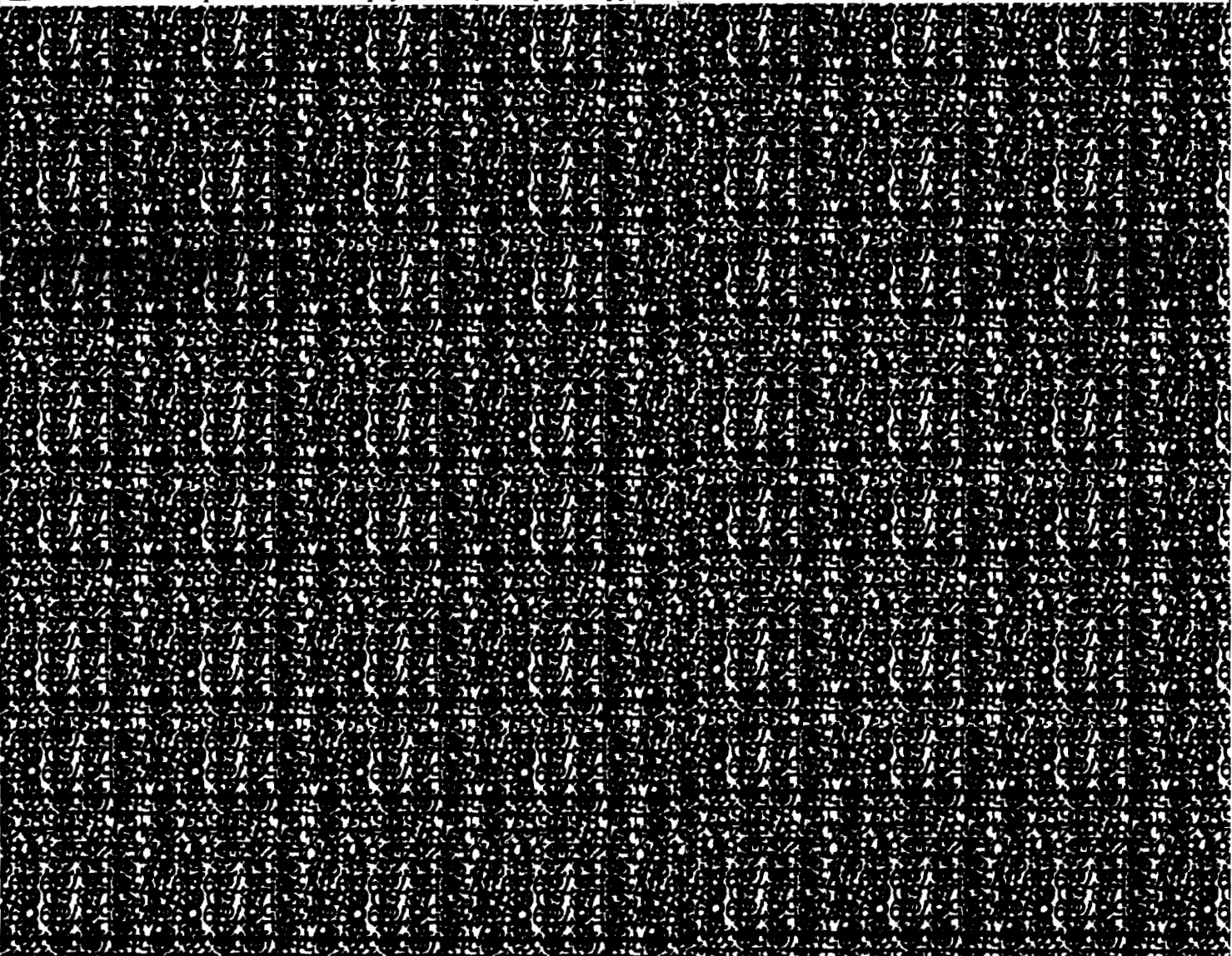
John Doe 5-28-07

REASON YOU ARE REQUESTING HEALTH CARE SERVICES. (Describe Your Health Problem And How Long You Have Had

The Problem) I need a incision in my neck. I need the dosage up. I need something for pain. Something to replace some and vitamin would like a AIDS TEST and would like my back checked for cancer need hernia treatment back brace which can give state deliver cell/cp outpatients day then

NOTE: IF THE PATIENT IS UNABLE TO COMPLETE THE FORM, A HEALTH CARE STAFF MEMBER SHALL COMPLETE THE FORM ON BEHALF OF THE PATIENT AND DATE AND SIGN THE FORM

PART III: TO BE COMPLETED AFTER PATIENT'S APPOINTMENT

☐ Visit is not exempt from \$5.00 copayment. (Send pink copy to Inmate Trust Office.)

HEALTH CARE SERVICES REQUEST
CDC 7362 PAGE 2

IMPORTANT INFORMATION ABOUT YOUR HEALTH CARE VISIT

WHEN DO YOU HAVE TO PAY FOR A HEALTH CARE VISIT?

On July 9, 1994, a California State law was passed. That law gave the Department of Corrections permission to charge inmates a fee when they request a health care visit. The California Code of Regulations, Title 15, Div 3, has also been changed because of this law.

With some exceptions, **YOU WILL BE CHARGED** a five dollar (\$5.00) copayment fee for each health care visit that you request. This includes requests made for you by departmental staff, other inmates, your family or your attorney. If you request services that require more than one doctor, you will be charged for each initial visit with each doctor. This means if you request dental services and medical services, you will be charged for the visit with the dentist and the doctor/nurse.

The copayment fee will be charged to your trust account. If there is not enough money in your trust account over a period of 30 days, you will not be charged.

The copayment of \$5.00 for this visit will cover your visit with a doctor, nurse, or dentist. It will also cover prescribed medicines, laboratory tests, and referrals to other doctors.

YOU WILL NOT BE CHARGED for health care visits that are for:

an emergency.

a communicable disease (such as HIV, AIDS, and TB).

mental health services.

follow up health care services recommended by a doctor, nurse, or dentist.

health care services necessary to comply with State law and regulations (e.g., annual TB testing).

reception center screening and evaluation.

inpatient services, extended care, or skilled nursing services.

YOU WILL NOT BE DENIED HEALTH CARE IF YOU DO NOT HAVE MONEY IN YOUR TRUST ACCOUNT TO PAY THE FEE.

STATE OF CALIFORNIA
CDC 7362 (Rev. 03/04)

HEALTH CARE SERVICES REQUEST FORM

DEPARTMENT OF CORRECTIONS

PART I: TO BE COMPLETED BY THE PATIENT

A fee of \$5.00 may be charged to your trust account for each health care visit.

If you believe this is an urgent/emergent health care need, contact the correctional officer on duty.

REQUEST FOR: MEDICAL ☒ MENTAL HEALTH ☐ DENTAL ☐ MEDICATION REFILL ☐

NAME: KIRK CDC NUMBER: V-58590 HOUSING: D-6-123-6

PATIENT SIGNATURE: [Signature] DATE: 5-22-07

REASON YOU ARE REQUESTING HEALTH CARE SERVICES. (Describe Your Health Problem And How Long You Have Had The Problem) I have not slept in weeks. I've been taking stool softeners but don't help plus I'm in bad pain. I need my situation increased and someone to replace my work and discipline. I'm in bad pain and can't sleep. This is a on going thing. Truly Sincerely

NOTE: IF THE PATIENT IS UNABLE TO COMPLETE THE FORM, A HEALTH CARE STAFF MEMBER SHALL COMPLETE THE FORM ON BEHALF OF THE PATIENT AND DATE AND SIGN THE FORM

PART III: TO BE COMPLETED AFTER PATIENT'S APPOINTMENT

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HEALTH CARE SERVICES REQUEST
CDC 7362 PAGE 2

IMPORTANT INFORMATION ABOUT YOUR HEALTH CARE VISIT

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With some exceptions, **YOU WILL BE CHARGED** a five dollar (\$5.00) copayment fee for each health care visit that you request. This includes requests made for you by departmental staff, other inmates, your family or your attorney. If you request services that require more than one doctor, you will be charged for each initial visit with each doctor. This means if you request dental services and medical services, you will be charged for the visit with the dentist and the doctor/nurse.

The copayment fee will be charged to your trust account. If there is not enough money in your trust account over a period of 30 days, you will not be charged.

The copayment of \$5.00 for this visit will cover your visit with a doctor, nurse, or dentist. It will also cover prescribed medicines, laboratory tests, and referrals to other doctors.

YOU WILL NOT BE CHARGED for health care visits that are for:

an emergency.

a communicable disease (such as HIV, AIDS, and TB).

mental health services.

follow up health care services recommended by a doctor, nurse, or dentist.

health care services necessary to comply with State law and regulations (e.g., annual TB testing).

reception center screening and evaluation.

inpatient services, extended care, or skilled nursing services.

YOU WILL NOT BE DENIED HEALTH CARE IF YOU DO NOT HAVE MONEY IN YOUR TRUST ACCOUNT TO PAY THE FEE.

STATE OF CALIFORNIA
CDC 7362 (Rev. 03/04)

HEALTH CARE SERVICES REQUEST FORM

DEPARTMENT OF CORRECTIONS

PART I: TO BE COMPLETED BY THE PATIENT

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If you believe this is an urgent/emergent health care need, contact the correctional officer on duty.

REQUEST FOR: MEDICAL ☒ MENTAL HEALTH ☐ DENTAL ☐ MEDICATION REFILL ☐

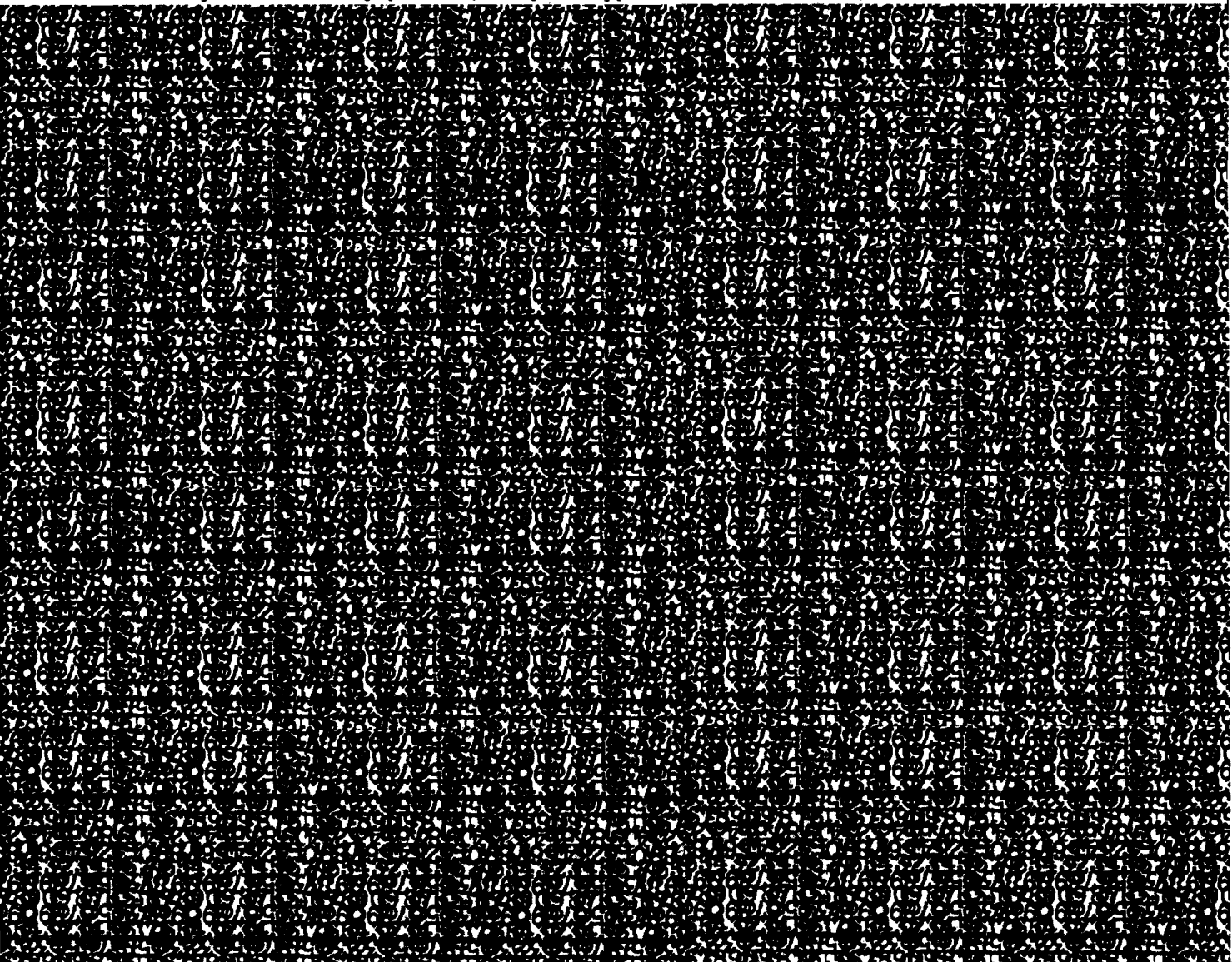
NAME: KIRK CDC NUMBER: U-58590 HOUSING: D-6-123-L

PATIENT SIGNATURE: [Signature] DATE: 5-20-07

REASON YOU ARE REQUESTING HEALTH CARE SERVICES. (Describe Your Health Problem And How Long You Have Had The Problem) I need my wisdom raised and I need something to replace some and needing an in head had pain and can't sleep I haven't had a bowel movement in at least 2 weeks I've seen the RN, she gave me stool softener but it won't work plus I need something for pain

NOTE: IF THE PATIENT IS UNABLE TO COMPLETE THE FORM, A HEALTH CARE STAFF MEMBER SHALL COMPLETE THE FORM ON BEHALF OF THE PATIENT AND DATE AND SIGN THE FORM

PART III: TO BE COMPLETED AFTER PATIENT'S APPOINTMENT

☐ Visit is not exempt from \$5.00 copayment. (Send pink copy to Inmate Trust Office.)

HEALTH CARE SERVICES REQUEST
CDC 7362 PAGE 2

IMPORTANT INFORMATION ABOUT YOUR HEALTH CARE VISIT

WHEN DO YOU HAVE TO PAY FOR A HEALTH CARE VISIT?

On July 9, 1994, a California State law was passed. That law gave the Department of Corrections permission to charge inmates a fee when they request a health care visit. The California Code of Regulations, Title 15, Div 3, has also been changed because of this law.

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STATE OF CALIFORNIA
CDC 7362 (Rev. 03/04)

HEALTH CARE SERVICES REQUEST FORM

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REQUEST FOR: MEDICAL ☒ MENTAL HEALTH ☐ DENTAL ☐ MEDICATION REFILL ☐NAME Kirk CDC NUMBER V-58590 HOUSING D-6-123-LPATIENT SIGNATURE John M Kirk DATE 6-7-07REASON YOU ARE REQUESTING HEALTH CARE SERVICES. (Describe Your Health Problem And How Long You Have Had The Problem) I would like a Aids Test and I would like this Brown Spot on my Back.checkst for cancer

NOTE: IF THE PATIENT IS UNABLE TO COMPLETE THE FORM, A HEALTH CARE STAFF MEMBER SHALL COMPLETE THE FORM ON BEHALF OF THE PATIENT AND DATE AND SIGN THE FORM

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HEALTH CARE SERVICES REQUEST
CDC 7362 PAGE 2

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mental health services.

follow up health care services recommended by a doctor, nurse, or dentist.

health care services necessary to comply with State law and regulations (e.g., annual TB testing).

reception center screening and evaluation.

inpatient services, extended care, or skilled nursing services.

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HEALTH CARE SERVICES REQUEST FORM

DEPARTMENT OF CORRECTIONS

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REQUEST FOR: MEDICAL ☒ MENTAL HEALTH ☐ DENTAL ☐ MEDICATION REFILL ☐NAME KIRK CDC NUMBER V-58590 HOUSING D-6-226-LPATIENT SIGNATURE John M. Kirk DATE 8-11-07

REASON YOU ARE REQUESTING HEALTH CARE SERVICES. (Describe Your Health Problem And How Long You Have Had The Problem) I Really need to see the Doctor on pain management I'm Really Having a hard Time Can you Please see me under 3354.1(1) and 3354.2(A) under Emergency medical care and 3350.1(1)(1) and 5) of Title 15 Can you Please See me

NOTE: IF THE PATIENT IS UNABLE TO COMPLETE THE FORM, A HEALTH CARE STAFF MEMBER SHALL COMPLETE THE FORM ON BEHALF OF THE PATIENT AND DATE AND SIGN THE FORM

PART III: TO BE COMPLETED AFTER PATIENT'S APPOINTMENT

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HEALTH CARE SERVICES REQUEST
CDC 7360 PAGE 2

IMPORTANT INFORMATION ABOUT YOUR HEALTH CARE VISIT

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- an emergency.
- a communicable disease (such as HIV, AIDS, and TB).
- mental health services.
- follow up health care services recommended by a doctor, nurse, or dentist.
- health care services necessary to comply with State law and regulations (e.g., annual TB testing).
- reception center screening and evaluation.
- inpatient services, extended care, or skilled nursing services.

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HEALTH CARE SERVICES REQUEST FORM

PART I: TO BE COMPLETED BY THE PATIENT

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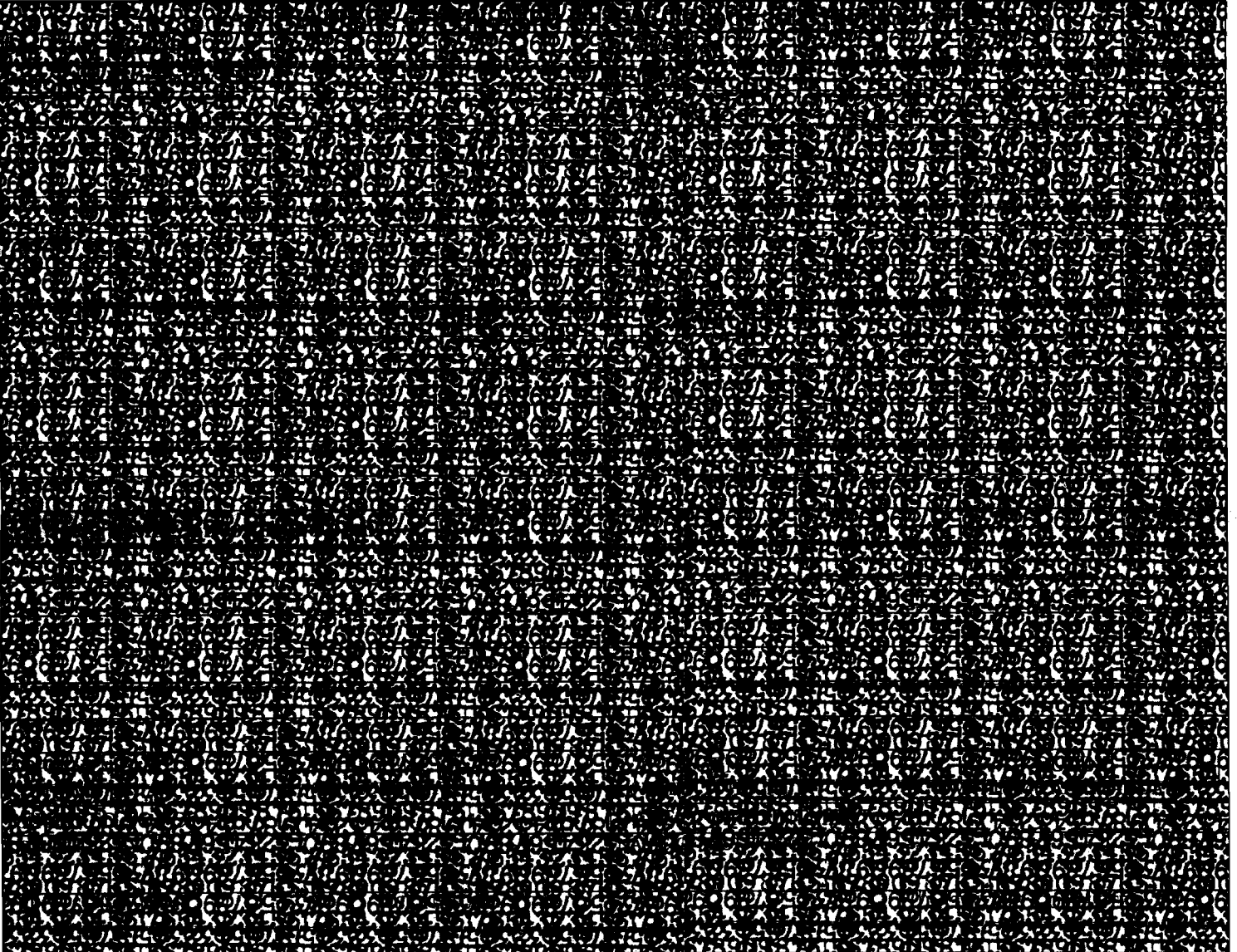
If you believe this is an urgent/emergent health care need, contact the correctional officer on duty.

REQUEST FOR: MEDICAL ☒ MENTAL HEALTH ☐ DENTAL ☐ MEDICATION REFILL ☒NAME: KIRK John
CDC NUMBER: U-58590
HOUSING: D-6-123-HPATIENT SIGNATURE: John M. Kirk
DATE: 6-7-07

REASON YOU ARE REQUESTING HEALTH CARE SERVICES. (Describe Your Health Problem And How Long You Have Had The Problem) Can I please get a increase on my gabapentin I was on 1200mg 3 times daily before I was on soma and vicodin and it was helping me can you please atleast increase up to 800mg 2 times and 1200mg 2 times daily that helps me with my back and legs

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HEALTH CARE SERVICES REQUEST
CDC 7362 PAGE 2

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mental health services.

follow up health care services recommended by a doctor, nurse, or dentist.

health care services necessary to comply with State law and regulations (e.g., annual TB testing).

reception center screening and evaluation.

inpatient services, extended care, or skilled nursing services.

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E. Request for Relief

Plaintiff requests that this Court grant the following relief:

1. An injunction preventing defendant(s): to From Treating People with
Cruel and unusual punishment and To Stop lying and give
me my pain med's and medical supplies that I deserve
2. Damages in the sum of \$ 50,000
3. Punitive damages in the sum of \$ _____
4. Other: That the Courts make it a stipulation that I get
my opioet med's and medical supplies

F. Demand for Jury Trial

Plaintiff demands a trial by ☐ Jury ☒ Court. (Choose one.)

G. Consent to Magistrate Judge Jurisdiction

In order to insure the just, speedy and inexpensive determination of Section 1983 Prisoner cases filed in this district, the Court has adopted a case assignment involving direct assignment of these cases to magistrate judges to conduct all proceedings including jury or bench trial and the entry of final judgment on consent of all the parties under 28 U.S.C. § 636(c), thus waiving the right to proceed before a district judge. The parties are free to withhold consent without adverse substantive consequences.

The Court encourages parties to utilize this efficient and expeditious program for case resolution due to the trial judge quality of the magistrate judges and to maximize access to the court system in a district where the criminal case loads severely limits the availability of the district judges for trial of civil cases. Consent to a magistrate judge will likely result in an earlier trial date. If you request that a district judge be designated to decide dispositive motions and try your case, a magistrate judge will nevertheless hear and decide all non-dispositive motions and will hear and issue a recommendation to the district judge as to all dispositive motions.

You may consent to have a magistrate judge conduct any and all further proceedings in this case, including trial, and the entry of final judgment by indicating your consent below. Failure to either consent to proceed before a magistrate judge or request designation of a district judge will be deemed a consent to proceed before the magistrate judge.

Choose only one of the following:

☒ Plaintiff consents to magistrate judge jurisdiction as set forth above.

OR

☐ Plaintiff requests that a district judge be designated to decide dispositive matters and trial in this case.

1-20-08
Date

John Kirk
Signature of Plaintiff

**HIGH DESERT STATE PRISON
NOTIFICATION OF INDIGENT MAIL
DIRECTOR RULES**

(SUBCHAPTER 2, ARTICLE 4, SECTION 3134)

INMATE NAME: KIRK, JOHN MICHAEL

DATE REQUESTED: 12/21/2007

DATE RECEIVED: 09/24/2007

CDC #: V58590

DATE SENT TO YARD: 12/21/2007

FACILITY: B2 101L

12/21/2007

IE 20

COMPLETED BY: ACCT-HB

Staff

1. Indigent inmate means an inmate who is wholly/totally without funds at the time they were eligible for withdraw of funds for Canteen (Title 15, Section 3000).
2. Inmates who wish to apply for Indigent Mail Status must submit a written request to the Mailroom monthly. Inmates are allowed to submit (1) request for indigent mail supplies, per calendar month. It is not necessary to send more than (1) request per month.
3. Indigent envelopes are issued every thirty days. Requests for indigent envelopes need to be received in the Mailroom at least (2) days before your issue date. Requests received after the issue date will be assigned a new issue date. Requests will not be processed early.
4. Inmates approved for indigent mail supplies will receive (20) envelopes once per month instead of (5) envelopes per week.
5. The Facility staff at the inmate's respective housing unit will supply writing paper for indigent inmates.

JAN	FEB	MAR	APR	MAY	JUN
					06/18/07
JUL	AUG	SEP	OCT	NOV	DEC
07/23/07	08/21/07	09/24/07	10/22/07	11/20/2007	12/21/2007

N. E. MEANS NOT ELIGIBLE BECAUSE FUNDS AVAILABLE OR HAD TRUST WITH DRAWAL IN LAST 30 DAYS.

To apply for more envelopes complete and forward the bottom portion of this form

CHECKLIST FOR 1983 COMPLAINTS

Plaintiff or plaintiff's counsel should ensure that the complaint contains the following:

- _____ 1. A short and concise statement of the basis of the Court's subject matter jurisdiction.
- _____ 2. If brought as a class action, allegations that meet the requirements of Fed. R. Civ. P. 23, and any applicable local court rule.
- _____ 3. A reference to § 1983.
- _____ 4. Allegations clearly specifying if relief is sought against a particular official in an individual or official capacity, or in both capacities.
- _____ 5. Factual allegations supporting the assertions that each defendant:
 - _____ (a) acted under the color of state law, and
 - _____ (b) engaged in conduct that was the proximate cause of the violation of the plaintiff's federally protected rights
- _____ 6. Specific allegations supporting any claim of conspiracy or joint action.
- _____ 7. If the plaintiff seeks to recover damages against an official in an individual capacity, specific factual allegations showing that recovery is not defeated by absolute or qualified immunity.
- _____ 8. If municipal liability is sought to be established, allegations supporting a municipal policy or practice that was the proximate cause of the violation of the plaintiff's federally protected rights.
- _____ 9. Reference to the specific federal constitutional or statutory rights claimed to have been violated.
- _____ 10. Reference to state law claims asserted under "supplemental" jurisdiction.
- _____ 11. If prospective relief is sought, factual allegations supporting the assertion that the plaintiff faces realistic probability of the type of future injury contested in the complaint.
- _____ 12. Factual allegations supporting a claim for punitive damages.
- _____ 13. A prayer for each form of relief requested
- _____ 14. A prayer for attorney's fees pursuant to 42 U.S.C. § 1988(b).

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

John Michael Kirk

PLAINTIFF or PETITIONER

v.

Case Number:

Folkner

Defendant or Respondent

PROOF OF SERVICE

I hereby certify that on 1-28, 2008, I served a copy
of the attached Civil Rights Act 42 U.S.C. 1983, by placing a copy in
a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope
in the United States Mail at High Desert State Prison:

I declare under penalty of perjury that the foregoing is true and correct.

John M Kirk

049J82046673
\$02.160
01/30/2008
Mailed From 96127
US POSTAGE



HIGH DESERT STATE PRISON

RECEIVED
FEB -1 2008

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

[Signature]

Legal mail

*United States District
450 Golden Gate Ave
San Francisco Ca
94102*

STATE PRISON

B4

*John Michael Kirk
458590 B-4-117
P.O. Box 3030
Duanville Ca 96130
H.D.S.P.*

80-62-1 13150M19

Heppner